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Procedure and mechanisms facilitating the implementation of the Convention: reports on the status of implementation of the Convention

Synthesis report on the status of implementation of the Convention*

Report by the secretariat**

Summary

The present report was prepared pursuant to decision I/8 of the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, which requests the secretariat to prepare a synthesis of the national implementation reports submitted by Parties for each session of the Meeting of the Parties, summarizing the progress made and identifying significant trends, challenges and solutions (ECE/MP.PP/2/Add.9, para. 5). The current report summarizes information from 39 national implementation reports. It aims to assist the Parties in assessing implementation of the Convention in the fourth reporting cycle (2011–2013).

* The present document was submitted late in order to take into account the information provided in many of the national implementation reports, which were submitted by Parties significantly after the deadline.

** This synthesis report was prepared by a consultant commissioned by the Convention secretariat.

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Introduction

1. The reporting mechanism under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was established by decision I/8[1] of the Meeting of the Parties (MOP), which requires Parties to submit their national implementation reports (NIRs) to the secretariat in advance of each ordinary session of the MOP. Each Party has to report on the necessary legislative, regulatory or other measures that it has taken to implement the provisions of the Convention, and their practical implementation, in accordance with the format set out in the annex to decision I/8. Parties have to prepare updated versions of their reports in advance of each subsequent session of the MOP. The reports must be prepared through a transparent and consultative process involving the public. International, regional and non-governmental organizations (NGOs) engaged in programmes or activities providing support to Parties and/or other States in the implementation of the Convention are also invited to provide the secretariat with reports on their programmes or activities and lessons learned.

2. By decision II/10[2] the MOP invited Parties to provide more information with regard to the practical implementation of each of the Convention's provisions in its NIRs, and to indicate any major differences of opinion emerging from the consultation process. In decision III/5,[3] the MOP reviewed the experience with preparation of NIRs and established additional requirements concerning their preparation (regarding the word limit, format and public participation). By decision IV/4,[4] a revised reporting format in the form of a questionnaire was introduced to incorporate reporting on the implementation of article 3, paragraph 7, and article 6 bis and the follow-up regarding possible specific cases of non-compliance in future reporting cycles.

3. In accordance with decision I/8 (para. 5), the secretariat has to prepare a synthesis report for each ordinary MOP session summarizing the progress made and identifying significant trends, challenges and solutions. Parties are obliged to submit their reports to the secretariat no later than 180 days before the session. In order to allow for the preparation of the present synthesis report, Parties were to have submitted their NIRs before 30 December 2013.

4. The present report was prepared on the basis of 39 NIRs,[5] of which, 29[6] were submitted by Parties before the deadline and 10[7] were submitted after. Two Parties submitted their reports too late to be taken into consideration.[8] Five Parties[9] with reporting obligations under the current reporting cycle did not submit their NIR by the time of writing

[1] ECE/MP.PP/2/Add.9, available from http://www.unece.org/env/pp/mop1docum.statements.html.
[2] ECE/MP.PP/2005/2/Add.14, available from http://www.unece.org/env/pp/mop2/mop2.doc.html.
[3] ECE/MP.PP/2008/2/Add.7, available from http://www.unece.org/env/pp/mop3/mop3.doc.html.
[4] See ECE/MP.PP/2011/2/Add.1, available from http://www.unece.org/env/pp/mop4/mop4.doc.html.
[5] Copies of all the NIRs received for the fourth reporting cycle are available on a dedicated web page (http://www.unece.org/env/pp/reports_trc_implementation_2014.html).
[6] Reports of Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Estonia, Finland, France, Georgia, Germany, Ireland, Kazakhstan, Kyrgyzstan, Lithuania, the Netherlands, Norway, Poland, Romania, Serbia, Slovenia, Spain, Sweden, Tajikistan and the United Kingdom of Great Britain and Northern Ireland.
[7] Reports of the Czech Republic, the European Union, Greece, Hungary, Italy, Latvia, Montenegro, the Republic of Moldova, Slovakia and Ukraine.
[8] Cyprus and Luxembourg.
[9] Iceland, Malta, Portugal, the former Yugoslav Republic of Macedonia and Turkmenistan.

(i.e., by 20 May 2014). One report from an NGO, Icelandic Environmental Association, Landvernd, was received in time to be included in the synthesis report.[10]

5. This report provides an analysis of the NIRs submitted by Parties to the Aarhus Convention on their progress in implementation of the Convention's provisions during the fourth reporting cycle (2011–2013), summarizing progress made and identifying significant trends, challenges and solutions. As with the synthesis report for the fourth session of the MOP (Chisinau, 29 June–1 July 2011),[11] the use of sources other than NIRs submitted by Parties was limited by the mandate set out in decision I/8 and the time and resources available to the secretariat. References to other sources, such as reports by the Compliance Committee, are made with a view to providing additional information with regard to specific Parties. The report therefore should be read with these limitations in mind and should not be regarded as a comprehensive, exhaustive or independent review of the status of implementation of the Convention.

6. Similarly to the previous synthesis report, the Aarhus Convention Compliance Committee had an opportunity to comment on the present report and some members of the Committee provided comments of a factual nature, but refrained from addressing any specific issues of compliance. In this regard the report does not necessarily fully reflect the Compliance Committee's views and examples cited from NIRs are not necessarily deemed as examples of good practice by the Compliance Committee.

7. Examples cited in this report are those provided by Parties. Some Parties provided many and detailed examples, while others provided few details or simply referred to previous NIRs.

8. The majority of Parties focused on their legislative provisions and plans for or drafts of new legislation related to the implementation of the Convention. A few Parties made reference to the case law produced by their national judicial bodies of different levels or by the Court of Justice of European Union. Parties provided information on the practical arrangements organized by their ministries of environment, governmental bodies, NGOs and other actors during the reporting period. Nearly one third of Parties responded to the questions in the reporting format concerning the obstacles they encountered in implementing particular provisions of Convention, inserting information mainly provided by NGOs during the preparation of the NIRs. NIRs also pointed out some positive trends, practices, laws and institutional arrangements established by Parties during the fourth reporting cycle, as well as cases of inadequate implementation of the Aarhus Convention.

9. The present report consists of 4 chapters: chapter I describes the process of preparation of NIRs by Parties; chapter II outlines some regional trends in the implementation of the Convention in three subregions — Eastern Europe, the Caucasus and Central Asia, the European Union (EU) and Norway and South-Eastern Europe; chapter III provides a detailed analysis of the implementation of articles 3 to 9 of Convention, the amendment to the Convention on genetically modified organisms (GMO amendment) and compliance of Parties with MOP decisions concerning them; and chapter IV offers conclusions on the fourth reporting cycle.

[10] The secretariat also received a report from the Georgian NGO Green Alternative, but it was submitted too late to be included in the present synthesis.

[11] ECE/MP.PP/2011/7, available from http://www.unece.org/env/pp/mop4/mop4.doc.html.

I. Procedural aspects of the fourth reporting cycle

10. In accordance with paragraph 9 of decision II/10, the deadline for submitting NIRs to the secretariat in the fourth round of reporting was 30 December 2013, i.e., 180 days before the scheduled opening of the fifth session of the MOP. The recommended deadline by the secretariat was 1 December 2013.

11. Twenty-nine Parties submitted their reports on time. At the time of writing, 40 out of the 47 Parties submitted their national implementation reports, but one report was submitted too late to be considered and one Party (Switzerland) was not obligated to report in the present cycle. No reports were submitted by Signatories or other States not party to the Convention. Two reports were received from NGOs; however, due to the late submission of one of them, only the Icelandic Environment Association, Landvernd, report is taken into consideration herein, in accordance with paragraph 7 of decision I/8.

12. As of 20 May 2014, no reports had been received from the following Parties: Iceland, Luxembourg, Malta, Portugal, the former Yugoslav Republic of Macedonia (which also failed to provide its report in 2011) and Turkmenistan. As mentioned above, Switzerland, which only ratified the Convention on 3 March 2014, is not obligated to report during this cycle.

13. The revised reporting format for the 2014 reporting cycle was set out in the annex to decision IV/4. In addition to the questions answered by Parties in the previous reporting cycle, by decision IV/4 the MOP obliged Parties to provide answers to questions on implementation of its previous recommendations on issues arising from compliance matters considered by the Aarhus Convention Compliance Committee, as well questions on genetically modified organisms (GMOs). The Parties were invited to use the Guidance on Reporting Requirements prepared by the Compliance Committee.[12] The secretariat also provided training on fourth reporting cycle at the sixteenth meeting of the Working Group of the Parties (Geneva, 19–21 June 2013), including a demonstration on how to use the new online reporting tool.[13]

14. Two thirds of the Parties followed the format for NIRs set out in the annex to decision IV/4. A few Parties failed to include questions concerning GMOs (questions 32–36) and compliance issues (question 37), namely: Albania (questions 32–36); the Netherlands, Slovakia and Tajikistan (questions 33–36); Armenia, Denmark and Estonia (questions 36); Ukraine (37). Question 37 on follow-up on compliance matters is particularly relevant for Ukraine, which was requested by MOP decision IV/9h to report on compliance with the recommendations of the Compliance Committee in that regard (see also para. 203 below).[14]

15. Overall, reporting Parties claimed that the process of preparing NIRs had been transparent and participatory. Parties described the process of preparing their national reports with differing levels of detail, including with regard to timing, drafting arrangements, the variety of stakeholder involvement, the form of public consultations and their outcomes, and summaries of the comments received from NGOs and governmental authorities and their reflection in the report texts, as explained in greater detail in the paragraphs below. Ireland prepared its NIR for the first time.

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[12] ECE/MP.PP/WG.1/2007/L.4, available from http://www.unece.org/index.php?id=24470.

[13] See ECE/MP.PP/WG.1/2013/2, para. 31, available from http://www.unece.org/env/pp/aarhus/wgp16.html.

[14] More information is available on the Compliance Committee web page dedicated to follow-up on decisions of the MOP by individual Parties (http://www.unece.org/env/pp/ccimplementation.html).

16. The majority of reporting Parties prepared an updated version of their previous implementation report, as advised by the Guidance on Reporting Requirements. Most Parties relied on the methodology proposed in the Guidance and about two thirds of the Parties included new information through the use of the track-changes mode in the electronic document to reflect the changes made in their previous reports. This approach to preparation of NIRs greatly facilitated the work of reviewing the progress made by Parties in the intersessional period.

Organizational arrangements for NIR preparation

17. In the majority of cases, draft NIRs were prepared by the governmental authorities responsible for environmental issues (environmental ministries or agencies). Serbia and Croatia created working groups for the preparation of the draft report consisting of governmental representatives, and Croatia allowed an NGO representative to take part. In Belgium the preparation of the national report was coordinated by a national Aarhus network.

Basic materials used in preparation of NIRs

18. Basic materials used in the preparation of NIRs included previous NIRs, information and comments from governmental institutions, international organizations, national and local agencies and the public, laws and regulations and various electronic resources (e.g., Estonia, Finland, Georgia, Greece, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Montenegro, Serbia, Spain and many others). The Czech Republic stated that its report was also prepared on the basis of a statement by the association of environmental NGOs "Zelený kruh" (Green Circle).

Timing and duration of consultations

19. In most cases the consultation process lasted two to four weeks, while the longest time span at the national level — eight weeks — were allotted in Greece. The EU made the draft report available to the public for comments for three months. Romania did not mention the timing and organizational aspects of public consultations on their NIR. The majority of the reporting Parties followed the preparation schedule as recommended by the secretariat.

Tools for facilitating consultations

20. Electronic tools were commonly used for dissemination of information on the consultation process, distribution of the draft national reports, posting of the draft report on the Internet, collection of comments by e-mail, etc. Ireland's environmental authority developed a dedicated Aarhus Convention section on their web page, issued a press release at each stage of the consultations and actively used its Facebook and Twitter accounts to call for comments. The Netherlands posted its draft national report on the web page of the Centre for Public Participation. Estonia used the "NatureTime" web page for its public consultations.

Interdepartmental and multi-stakeholder consultations

21. All reporting Parties stated that they invited a broad range of national and regional authorities (in the spheres of water, land, forests, transport, health, industry, trade, natural resources, energy, etc.) to participate in the preparation and commenting of their draft national reports, as well as the judiciary, academic institutions, consultative bodies, think tanks, ombudsmen or commissioners protecting citizens' rights, Aarhus Centres, business, research bodies NGOs and international organizations (e.g., the Organization for Security and Cooperation in Europe, Regional Environmental Centres, the United Nations

Development Programme and the United Nations Environment Programme (UNEP)). Most Parties did not report on the content and quantity of comments received, but a few Parties mentioned the absence of comments from these stakeholders. Poland provided a list of the governmental and research institutions that had commented the draft report, while Sweden summarized their inputs. Spain prepared its national report in collaboration with the Spanish Federation of Municipalities and Provinces to ensure contribution from local and autonomous community authorities.

Public consultations

22. All reporting Parties stated that they conducted consultations with the general public on draft NIRs which were made publicly available on the web pages of the relevant authorities (Lithuania being an exception). Public hearings were organized in nearly half of the reporting countries, in addition to collecting comments by the public on online draft reports. Some countries sent draft reports to NGO networks, key environmental NGOs, Aarhus Centres and environmental web portals (e.g., Albania, Estonia, Georgia, Hungary, Ireland, Kyrgyzstan, Kazakhstan, Montenegro, Serbia and Tajikistan). Two stages of consultations (on the first and second draft of the report or on the questionnaire and the draft report) took place in several countries (e.g., Bosnia and Herzegovina, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Italy, Poland, Slovakia, Slovenia and Tajikistan). Armenia held three stages of consultations. A few Parties reported receiving comments from environmental NGOs as well as by the public, trade unions and variety of other associations (e.g., Poland, Spain and Sweden).

23. Most Parties indicated that the results of public consultations were taken into account and a few summarized the comments received in their report (e.g., Bulgaria, Netherlands, Norway and Sweden). A number of Parties filled in the questions on obstacles and practical implementation of the Convention's provisions with comments provided by NGOs and other stakeholders. Some countries indicated that NGO comments had been taken into account only to the extent possible (e.g., Austria, Germany and United Kingdom of Great Britain and Northern Ireland). Some other Parties briefly mentioned the number and type of comments received, how many of them had been taken into account and the reason(s) why some had not been considered (e.g., Belgium, Estonia, Finland, Germany and Slovenia). A few Parties indicated that they did not agree with some of the comments. At least one Party stated that, where there was a difference of opinion, the official Government position had been used as the basis for the report (e.g., Germany). A few Parties indicated that the results of the public consultations and comments received had been posted on the web pages of the relevant authorities coordinating the preparation of the reports (e.g., Austria, Belgium, Denmark and Ireland). The Croatian Ministry of Environmental and Nature Protection posted its statement on the objections received during consultations which had not been included in the final version of national report online. Ireland prepared decision-making tables that summarized the main points made in the comments received from the public and detailed why certain issues raised had not been reflected in the final draft. The EU noted that the outcome of public consultation had been duly taken into account and individual replies had been sent to contributors. Romania mentioned the absence of comments from the public. Albania, Belarus, Greece, Kazakhstan, Latvia and the Republic of Moldova did not provide details on whether any public comments on the draft report had been received. Lithuania made no reference to public consultations and the availability of public comments. France commented on the lack of involvement of environmental NGOs and the public in the preparation of its NIR, although the draft report had been made available to the public on the web page for one month.

24. A consolidated report based on the reports from three regions and from the federal level was prepared by Belgium. Parties with the federal system of government, with

autonomous regions or a decentralized structure coordinated the preparation of their national reports with those entities and consulted with them (e.g., Austria, Bosnia and Herzegovina, Germany, Italy, Serbia, Spain and United Kingdom). A few Parties mentioned consultations on draft NIRs with local departments or authorities responsible for environmental protection.

Final NIR

25. Parties were invited to submit their NIRs in three steps: in Word versions by e-mail (in track changes and clean versions); using the online reporting tool; and sending hard copies by post. Many Parties made available online final versions of their reports (full versions and versions in the reporting format as sent to the secretariat). Germany submitted its NIR in all three Economic Commission for Europe (ECE) languages. Kazakhstan and Tajikistan submitted their reports in two ECE languages. Bosnia and Herzegovina produced its report also as a publication in English and in the country's national languages.

II. Some regional trends in implementation

26. For the regional review three groups of Parties were identified: (a) the countries of Eastern Europe, the Caucasus and Central Asia;[15] (b) European Union (EU) countries and Norway; (c) countries of South-Eastern Europe[16] (SEE). During the fourth reporting cycle, 9 out of 10 Parties from the first subregion, 26 countries out of 31 from the second and 4 countries out of 5 from the third submitted their NIRs in time to be considered in the synthesis report.

A. Eastern Europe, the Caucasus and Central Asia

27. During the fourth reporting cycle, the legislation of Parties in Eastern Europe, the Caucasus and Central Asia continued to be subject to amendment and new developments, mainly with regard to access to information and public participation. Parties of this subregion also reported on the establishment and operation of special structures facilitating implementation of access to environmental information and public participation provisions. A special and active role in this sphere is played by the Aarhus Centres, which cover both the national and regional levels. Aarhus Centres offer guidance to the public, perform awareness-raising activities, facilitate access to information and public participation and assist Governments in the performance of their functions and in cooperating with the public.

28. In Eastern Europe, the Caucasus and Central Asia, positive improvements were reported in relation to providing access to information by Parties, including the maintenance and improvement of existing websites of governmental bodies collecting and possessing environmental information. Parties showed a tendency to increase the amount of information made available on websites, to launch special databases and online monitoring systems and to facilitate public access to environmental information and information and documents of the governmental bodies operating in the field of nature protection either through institutional, legislative, or practical measures. E-governance initiatives were launched by Governments throughout the region.

[15] Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Republic of Moldova, Tajikistan, Turkmenistan and Ukraine.

[16] Albania, Bosnia and Herzegovina, Montenegro, Serbia and the former Yugoslav Republic of Macedonia.

29. On the issue of public participation, Parties of the subregion indicated slight or almost no progress or improvements compared with the previous reporting cycle. Parties are making efforts to develop draft laws on environmental impact assessment (EIA), including the necessary public participation provisions. These countries have a mechanism of public ecological expertise, but this has not been successfully implemented in practice. Public participation in the preparation of plans, programmes, executive regulations or normative acts is not systematic, and relevant, detailed regulations on public participation in this field are absent or inadequate.

30. In relation to access to justice, Parties failed to report any visible progress, while a number of obstacles continue to exist for the public (mainly NGOs) in this area.

31. Parties in Eastern Europe, the Caucasus and Central Asia are interested in implementation of pollutant release and transfer registers (PRTRs) and their activities are currently focused on preparing studies on the possibility of implementing PRTR systems, designing pilot PRTRs, etc. Parties are not making progress in ratifying the GMO amendment, and their national legislation in this area is still in the process of development.

32. Parties of the subregion reported on several general obstacles, mainly the lack of the necessary financial and qualified human resources and technical facilities and a low level of awareness about environmental rights, environmental legislation in general, and specifically the provisions of the Convention, among government officials and the general public.

B. European Union and Norway

33. Parties in the EU and Norway provided detailed information on their existing legislative frameworks, which are mainly implementing the EU legislation. During the reporting period, Parties of this subregion have made few amendments to their legislation, while institutional frameworks have stayed almost the same.

34. Parties reported on the effective implementation of access to information provisions by providing information upon request, very often in electronic form and mostly free of charge, regardless of established fees for the provision of copies of documents. Parties in the EU and Norway reported on the launch and maintenance of numerous online information systems, databases and PRTRs available to the public, while the emphasis was on making information more easily understandable to the general public. Institutionalizing special bodies or structures, such as ombudsmen, commissions or appeal boards, aimed at facilitating access to environmental information is a common trend in the region.

35. The majority of Parties in the EU and Norway report that procedures for public participation in decision-making on EIA, spatial planning, permitting and licensing are included in legislation and are implemented. Improvements in procedures, the use of electronic tools to enable public participation, and introducing special consultative bodies were mentioned by Parties as measures to facilitate public participation. However, differences between Parties in this subregion remain: many do not offer systematic opportunities for public discussions of draft plans, programmes, executive regulations and normative acts in the field of the environment, while for others this is common practice.

36. Parties indicate that access to justice continues to be the most problematic pillar of the Convention in the EU and Norway. They report that non-judicial legal remedies offered by Parties to members of the public correspond to the requirements of article 9 of the Aarhus Convention, but recourse to the courts is complicated in many countries. The legislation of these Parties is frequently not clear regarding different aspects of standing, fees and other elements of litigation. Thus, it is not a widespread practice for members of the public to apply to the courts to seek redress of their environmental rights. Positive court decisions in such cases are seldom handed down. Some Parties indicate that courts are

taking a positive approach to cases related to the Aarhus Convention, while others mention a negative trend of limiting access to justice for members of the public in environmental cases. In this connection, Parties reported on different initiatives aimed at identifying and targeting the main obstacles to access to justice, namely, financial constraints and standing limitations for NGOs. The findings of the Aarhus Convention's Compliance Committee are also helping Parties to identify the main challenges in the implementation of article 9 of the Convention and to find solutions. As a result, a few Parties initiated changes in their national legislation to improve access to justice for the public in environmental matters.

C. South-Eastern Europe

37. During the reporting period, Parties in SEE continued developing their national legislation and aligning it with EU legislation. They also continued to develop electronic databases of environmental information, websites of governmental bodies in the environmental sphere, regulations, mechanisms and practice on involving the public in decision-making.

38. Aarhus Centres are reported to have been playing an important role in the implementation of the Convention's provisions in the subregion by assisting the general public and governmental authorities in collecting and disseminating information, facilitating public participation and awareness-raising activities and initiating and participating in the drafting of relevant legislation.

39. Effective implementation of access to justice provisions in SEE countries is hampered, however, by ongoing judicial reforms and a low awareness among the public of their rights under the Convention. SEE Parties provided limited information on the practical implementation of article 9 or case law in Aarhus cases.

III. Thematic review of implementation

A. General provisions (article 3)

40. Half of the reporting Parties provided a complete list of the legislative and regulatory measures that implement the general provisions in article 3 of the Convention, while others mentioned only new laws or amendments enacted during the reporting period relevant for the implementation of article 3 and the Aarhus Convention as a whole. Parties gave broad responses concerning projects and other practical measures relevant for the implementation of article 3 performed by the governmental authorities in the sphere of environment and by non-State actors (mainly NGOs).

41. General obstacles encountered by Parties in implementing the provisions of article 3 could be summarized as problems with human resources: understaffing, underqualified staff, a lack of awareness among staff about the Aarhus Convention and the frequent rotation of staff within governmental agencies responsible for environmental issues. Financial problems are also cited by Parties (in particular, non-EU member States) as the main obstacles to the effective implementation of article 3. A lack of equipment and technical resources within governmental agencies at the national and local levels could also be hampering Parties' efforts. NGOs mainly complained about the lack of financial resources to support their activities; the lack of transparency and shortcomings in the public participation procedures, including the low impact of the public's comments on the final decisions; difficulties in access to information; and the low environmental awareness of the public.

Assistance and guidance to the public in the realization of their rights under the Convention (article 3, paragraph 2)

Aarhus Centres

42. In Eastern Europe, the Caucasus and Central Asia and SEE countries, Aarhus Centres are mentioned as very important and useful tools for facilitating the implementation of the Convention and providing assistance to the public in exercising their rights under it (e.g., Albania, Armenia, Belarus, Bosnia and Herzegovina, Georgia, Kazakhstan, Kyrgyzstan, Montenegro, Serbia, Tajikistan and Ukraine). Moreover, the Aarhus Centres' national and regional network coverage has been expanding, and their work has undergone several improvements and changes. For example, Aarhus Centre websites are being improved in order to better help the public seeking access to timely information and improve public participation opportunities.

43. Communication of information to and guidance for the public are sometimes provided by separate organizational units or appointed officials (departments or agencies) operating within governmental bodies, or through a variety of local authorities. Examples include Public Relations Officers in Bosnia and Herzegovina, Information Officers in Croatia, the Public Relations Service in Georgia, the Special Coordination Directorate of Environmental Actions in Greece, Liaison Officers and a Greenpoint Network in Hungary, the Environmental Queries Unit in Ireland, the "Office for the Relationships with the Public" in Italy, Information Representatives' offices in Lithuania, the Participation Directorate in the Netherlands, Information Offices of the State Government and environmental information services in Spain, and the Information Commissioner in the United Kingdom.

Consultative structures

44. The majority of Parties reported on the use of consultative structures such as public (advisory) councils within the government that facilitate opportunities for participation in decision-making and promote cooperation and information exchange between government bodies and relevant NGOs, experts, scientists, journalists and the general public. In order to increase citizens' participation in community development, a specific participation method was introduced in Austria called "wisdom councils". The Republic of Moldova mentioned a governmental Council for Participation consisting of public association representatives that consult the Prime Minister on different issues, including environmental issues. Austria reported that it has Ombudsmen for the Environment at the provincial level to facilitate cooperation with NGOs in sharing information.

Electronic tools

45. A more active use of different electronic tools, as compared with the previous intersessional period, was reported by all Parties. Moreover, Parties from the EU and Norway intensified the use of modern technologies in the public participation process. For example, an e-democracy web portal in Slovenia aimed at facilitating public debates on draft governmental regulations; an e-participation website in Austria included necessary guidance documentation for the public; and an online public participation process in Spain had been launched at both the governmental and autonomous community levels. Parties stated that their ministries of environment and governmental agencies had increased their use of social networks (such as Twitter and Facebook), other forms of social media (YouTube) and other electronic tools to disseminate information to the general public, not only within the EU, but also in Eastern Europe, the Caucasus and Central Asia and SEE.

46. E-governance is mentioned by Parties from Eastern Europe, the Caucasus and Central Asia region (e.g., Armenia, Kyrgyzstan and the Republic of Moldova), the EU (e.g.,

Austria, Greece, Latvia and Romania) and Norway as an opportunity for enhancing new forms of participation and access to information.

47. Parties from the EU and Norway reported on efforts to simplify access to environmental information by creating integrated environmental web portals (web pages) gathering in one place environmental data, environmental information, digital maps, online information on pollution, monitoring, legislative databases, international agreements, regulations, permitting procedures, etc. (e.g., "Ekoportal" in Poland; "EnviroInfo" in Slovakia; "National Electronic Catalogue of Environmental Data Sources" in Bulgaria; ENFO in Ireland; "Environmental Atlas" in the Netherlands; and the data.gov.uk portal in the United Kingdom).

Guidance materials

48. Several Parties report they are preparing or have published guidance materials targeting the general public and government officials, e.g.: public participation handbooks for municipalities and regional administration (Austria); Codes of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, other regulations and Acts with Guidelines and the Guide to Consultation with the Interested Public (Croatia); Guidance notes on the European Commission Regulation on Access to Information on the Environment (Ireland); a handbook for governmental officials on handling of informational requests on access to environmental information from the public (Kazakhstan); and a Guidance on Consultation Principles for Government and the recently developed National Planning Practice Guidance (United Kingdom). Training sessions offered to governmental officials on the Aarhus Convention were reported by a few Parties (e.g., Poland).

49. Parties provided very little information concerning guidance and assistance to the public on access to justice issues. The United Kingdom reported the operation of voluntary bodies, including Citizens Advice, which acted as a gateway to a network of local Citizens Advice Bureaux that provided practical advice on the legal system and individuals' rights. Hungary mentioned a seminar on environmental protection for judges, governmental representatives and prosecutors. Germany stated that its legislation ensures the provision of information to the public on legal remedies available. In Belarus the regional Aarhus Centre provides legal advice on environmental matters.

Promotion of environmental education and awareness-raising among the public (article 3, paragraph 3)

50. The promotion of environmental education and awareness-raising is reflected in relevant legislative provisions and in the curricula of educational institutions. Several Parties reported on special units or agencies aimed at the advancement of environmental education (e.g., the Association for Environmental Education in Finland; the Environmental and Education Centre in Georgia; the National Coordination Commission on Education for Sustainable Development in Greece; local environmental education centres in Italy; the Environment-Education Centre in Montenegro; the National Centre of Environmental Education in Spain; and the Coordinating Intergovernmental Council on the development of a State programme of ecological education in Tajikistan). Aarhus Centres played an important role in the environmental awareness-raising activities in Eastern Europe, the Caucasus and Central Asia and SEE countries.

51. State policies or strategies on environmental and sustainable development education were adopted by several Parties (e.g., Austria, Finland, Georgia and Norway). Half of the reporting Parties mentioned programmes on environmental education run under the auspices of the ministries of environment or environmental agencies. A few Parties include this topic in the curriculum of secondary and high schools (e.g., Albania, Bosnia and Herzegovina, Estonia, Finland, France Norway, Romania, Slovakia and Sweden). Parties

also reported on written agreements between ministries and higher education institutions on the advancement of environmental and sustainable development education (e.g., Georgia and Kyrgyzstan).

52. Governments are also organizing a wide range of competitions, media campaigns, educational events and "eco-labelling" initiatives targeting educational facilities, children and students. Regular biannual surveys of citizens' awareness of the state of environmental and nature protection are performed in Germany and Estonia, which makes it possible to better target awareness-raising activities and to make them more effective.

53. NGOs are playing a key role in the field of environmental awareness and education, performing a vast variety of activities. NGOs are offered funding by the governmental institutions for such activities in almost all Parties, while funding from EU sources and international donor organizations is widely utilized as well.

Recognition and support for associations, organizations or groups promoting environmental protection (article 3, paragraph 4)

54. Obstacles to NGO registration exist in some countries, while the majority of Parties have simple, clear, low-cost procedures for NGO registration, with online registration available. The tendency to simplify the registration and operational requirements for NGOs is mentioned by several Parties; however, in others, such obstacles still exist. In Slovenia, for example, the criteria for acquiring the status of an organization operating in the field of environmental protection in the public interest, which gives such NGOs the right to participate in the process of issuing environmental consents and permits and access to judicial and administrative proceedings, are unreasonably demanding, as noted in comments of stakeholders.

55. In the EU and Norway subregion, NGOs are widely represented on a number of advisory bodies, committees and councils enabling them to better exercise their participatory rights and influence decision-making. For example, within the Ministry of Environment and Water of Bulgaria environmental NGOs participate in more than 20 advisory bodies and working groups as members. Hungary provided an extensive list of bodies operating with NGO participation. In Croatia, the Governmental Office for Cooperation with NGOs seeks to coordinate and summarize data regarding financial and non-financial support to NGOs from State and municipal funding sources. Slovakia says it plans to establish a Governmental Council for NGOs. In Montenegro, ministries have a practice of signing memorandums of cooperation with environmental NGOs to strengthen their partnership.

56. Governmental funding for NGOs (or associations or networks of NGOs) in the form of tenders, "social orders", grants for institutional support (in a few cases) or project-based funding (in a majority of cases) or co-funding is available to NGOs active in the field of nature protection, awareness-raising and education, nature conservation, etc. In half of the countries of the EU and Norway subregion, governmental funding for NGOs is available for different activities and for participation in relevant meetings or events; however, the stability of the funding is a cause of concern and the volume of funding has decreased in some cases. In the majority of Eastern Europe, the Caucasus and Central Asia and SEE countries governmental funding for NGOs is very limited and unsustainable, although the possibility of such funding formally exists in the form of funding from State environmental funds, ministries of environment, local authorities and local funds, etc., mainly for the implementation of awareness-raising, education and nature protection activities.

Promotion of the application of the principles of the Convention in international environmental decision-making processes (article 3, paragraph 7)

57. Internal consultations among and awareness-raising on the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums (Almaty Guidelines)[17] for governmental officials are reported by a few Parties in the form of seminars and internal consultations (e.g., Germany, Italy, Kyrgyzstan and Sweden). Romania mentioned the creation of an Internet network of governmental authorities for cooperation and the publication of opinions on international environmental decision-making. The Netherlands is considering the preparation of draft national guidelines on the promotion of Aarhus Convention in other international forums. In Norway, the National Focal Point is also able to provide information on implementation of the Almaty Guidelines, if needed. In Albania, the Tirana Aarhus Centre Board, comprised of representatives from all line ministries, is reported to have a positive, facilitating role in the implementation of article 3, paragraph 7, obligations.

58. Public participation in decision-making at the international level is realized by NGOs through their influence on governmental positions on different issues either directly or through NGO participation in different bodies. A few Parties from the EU and Norway subregion mentioned such a possibility for NGOs. For instance, Sweden holds regular meetings with NGO and government representatives ahead of the Aarhus MOP sessions or similar meetings to enable knowledge and information exchange. France created an ad hoc committee — the Rio+20 Committee — during preparations for the United Nations Conference on Sustainable Development (Rio+20 Conference) for consultations with the public and a variety of stakeholders. In addition, a website for communicating Rio+20 issues to the public was launched. In the United Kingdom, governmental bodies or officials regularly convene meetings with NGOs and stakeholder groups to share their official position before international meetings. Latvia enacted a governmental regulation stipulating the obligation to ensure broad stakeholder consultations on the national position both on EU matters and in the framework of international organizations. Finland reported there was NGO representation on several subcommittees under the Committee for National Preparation of EU Matters. Bulgaria prepared their official positions in agreement with the National Council for European Affairs working groups, consisting of NGO representatives. Parties from Eastern Europe, the Caucasus and Central Asia mentioned the implementation of Aarhus Convention principles in the work of the Interstate Sustainable Development Commission of Central Asia, inter alia, through the work of its Public Council.

59. The majority of Parties indicated their practice of including NGO representatives in governmental delegations to the main international forums and meetings (e.g., under the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity (CBD), the "Environment for Europe" process, the United Nations Conference on Sustainable Development, etc.). Ireland and Norway offered funding for the participation of NGOs in the main international meetings and forums during the reporting period.

60. Norway provided financial support to the work of UNEP in support of the development of an instrument similar to the Aarhus Convention for the Latin America and Caribbean region. Sweden supported the elaboration of guidelines on the development of national legislation on access to information, public participation and access to justice in environmental matters within the UNEP Governing Council. The United Kingdom funded a study on public participation and the Cartagena Protocol of Biosafety to the CBD.

[17] ECE/MP.PP/2005/2/Add.5, annex; available from http://www.unece.org/env/pp/mop2/mop2.doc.html.

61. With regard to obstacles to the implementation of article 3, paragraph 7, of the Convention, Austria mentioned that implementation of the Almaty Guidelines represents a major task that demands the cooperation of several ministries and sectors. Germany noted that application of the Guidelines is hampered in practice by specific, autonomous decision-making structures in the different forums.

Prohibition of penalization, prosecution and harassment (article 3, paragraph 8)

62. With respect to ensuring that persons exercising their rights in conformity with the provisions of the Convention are not penalized, persecuted or harassed for their involvement, Parties mentioned their constitutional and legislative provisions guaranteeing broad human rights for members of the public as well as non-discrimination provisions. The European Convention on Human Rights and Fundamental Freedoms was cited by Parties that were members of the Council of Europe as an instrument in line with article 3, paragraph 8, of the Aarhus Convention. Ukraine referred to its legal norms on liability for illegal communication containing false information, libel or slander or instigation to racial or religious hatred. Serbia made reference to a project implemented in the reporting period aimed at drafting a model law on whistle-blowing and the protection of whistle-blowers.

63. With regard to the use of libel, slander or similar provisions of civil or criminal law in the context of environmental decision-making processes, Belarus mentioned the arrest of Belarusian anti-nuclear activists, although the Ministry of Internal Affairs and the Ministry of Environment considered that any direct relationship between their arrest and their anti-nuclear activities was questionable. Latvia noted two court proceedings against active members of the public for damages claimed by business companies. Other Parties did not report on cases brought against members of the public for their activities.

64. On the issue of damages awarded against individuals in connection with their environmental protection activities, a few Parties reported on court procedures obliging the party in a dispute to compensate the opposing party for its legal costs if they lost. Slovenia observed that NGOs faced a great risk of having to reimburse their court costs if they lost a case. Hungary noted that, on a number of occasions, developers had brought civil cases against NGOs that opposed the project seeking financial compensation for delays or additional costs caused by the NGOs' activities. While repeatedly finding that harm was done to good business reputations, the Supreme Court had never yet awarded damages to the developers.

B. Access to environmental information upon request (article 4)

General provisions (article 4)

65. The majority of the Parties reported on their legislative and regulatory frameworks for implementing article 4 of the Aarhus Convention on access to environmental information. Such frameworks differ between Parties and are subject to constant improvements and amendments in order to improve access to information, keep up to date with the spread of electronic tools and facilitate the use of modern technologies. For instance, Spain adopted a new Decree on Reutilization of Public Information to advance transparency at the national level. During the reporting period, the Albanian parliament passed the Law "On Environmental Protection" and the Government adopted the Decision "On the Right of the Public to Access Environmental Information". Kyrgyzstan amended the Law "On Consideration of Appeals of Citizens" regulating consideration of electronic requests by public authorities, and a Law "On State statistic[s]" on the confidentiality of raw data. Croatia adopted a new version of its Law "On the Right of Access to Information" in 2013 with the aim of improving its information access monitoring and

control system. Recently Denmark adopted a new version of the Act on Access to Public Administration Files to broaden the principles of the openness of information.

66. In the EU and Norway subregion, further legislation was adopted to transpose Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information (Environmental Information Directive). The majority of Parties regulate the matter either via laws on access to public information or laws on access to environmental information. In several countries access to environmental information is regulated by an environmental code (e.g., Belgium, Estonia, France, Italy and Kazakhstan) or a law on environmental protection (e.g., Albania, Croatia, Finland, Hungary, Latvia, Lithuania and Slovenia, and many other Parties from Eastern Europe, the Caucasus and Central Asia). Parties from Eastern Europe, the Caucasus and Central Asia and the SEE subregion provided lists of different laws and regulations containing access to information provisions (including laws on appeals, laws on administrative procedures, an act on the openness of information, etc.).

67. Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) was mentioned by a few Parties with regard to access to spatial information (e.g., Bulgaria, Poland and Slovakia).

68. In countries with federal systems or a system of autonomous communities, provincial or regional legislation is reported to reflect the relevant provisions of the Aarhus Convention (e.g., Austria, Belgium, Bosnia and Herzegovina, Germany, Serbia, Spain and United Kingdom).

69. Concerning the main definitions ("public authority, "environmental information", "the public"), the majority of the reporting Parties claimed that their national legislation fully transposed definitions given in article 2 of the Aarhus Convention (e.g., Austria, Belgium, Croatia, Finland and Lithuania). A few Parties, however, mentioned that the absence of, or inadequate, definitions of these terms in their national legislation created confusion and limited the right of access to information to the public. Problems with the transposition or interpretation of the terms "environmental information", "public authority", and "emissions" were mentioned by Bulgaria, Greece, Sweden and the United Kingdom. A few Parties mentioned that public authorities are facing difficulties in distinguishing between requests for environmental information and requests for information held by public authorities (or administrative documents, or public information), which lead to the application of different legislative provisions.

70. Independent bodies aiming at securing the right of the public to access information, including environmental information, were established by a few Parties from the EU and Norway subregion and SEE (e.g., Belgium, Croatia, Ireland, Montenegro, Norway, Serbia, Slovenia and United Kingdom). For instance, the National Data Protection and Information Freedom Authority was established in 2011 in Hungary to consider applications from people claiming a violation of their right to access to public information. An Information Commissioner was established in Croatia during the reporting period to monitor implementation of access to information provisions. The Commissioner for Information of Public Importance and Personal Data Protection in Serbia, along with the consideration of complaints, also actively performs awareness-raising activities including trainings, publications and the running and updating of its web page.

Provision of environmental information upon request without an interest having to be stated and in the form requested (article 4, paragraph 1)

71. Almost all reporting Parties pointed out that their legislative provisions on access to environmental information do not require the applicant to state the interest or reasons for

requesting environmental information. In Italy, access to environmental information is granted without the need for the applicant to state an interest; however, the applicant is required to state an interest in order to access administrative documents. As reported, the difference between environmental information and administrative documents is not always clear. Belarus pointed out the difficulty faced by public authorities in responding to information requests, as the access to information law requires applicants to state an interest in order to obtain information, whereas the law on access to environmental information does not.

72. A few Parties reported that applicants were required to use a special form (template) for written information requests or to fill in mandatory elements of the request. For example, in Bosnia and Herzegovina the legislation sets out elements that should be included in such a request. In Kyrgyzstan, the law mentions that written requests should follow the template for such a request; as a result, the national report also mentions the problem of proper preparation of informational requests by the applicants. In contrast, the laws in Finland, Norway and Sweden foresee more liberal provisions for information requests, with no need to even mention the name of the applicant. At the EU level the public is recommended to use a specific online form for applications.[18]

73. In general, all reporting Parties claimed that copies of the documents requested are provided or that the applicant is allowed to make copies on the premises of the public authority. In Slovenia, copies may not be supplied if the information is protected by a copyright law. In such cases the applicant is allowed to inspect the documents on the premises of public authority, upon its consent.

74. All reporting Parties indicated that their national laws foresee the right of the applicant to receive information in the form requested, if it already exists in that form or if it is reasonable to provide it in that form. Exemptions from this rule include: technical difficulties in providing the information in the form requested; the existence of the information in another form which is easily accessible to the applicant; or an unreasonable increase in costs for provision of the information in the form requested. In Montenegro authorities are obliged, when possible and appropriate, to convert the information into the form requested by the applicant.

Timeline for the provision of information (article 4, paragraph 2)

75. Many reporting Parties enacted stricter legislative provisions on the timeliness of the provision of information upon request than foreseen by the Convention. The deadline for the provision of information varies, with a maximum limit of two months from the time of the request. A few SEE countries mentioned a legal requirement for information to be provided within 48 hours in certain urgent cases concerning the protection of life or liberties and threats to the environment (e.g., Montenegro and Serbia). In a few Parties from the EU and Norway subregion the authorities are supposed to provide the requested information "as soon as possible" (e.g., Belgium, Denmark, Finland, Hungary, Ireland, Latvia, Norway, Romania and Sweden), while others oblige authorities to provide information within a period of 15 to 30 days on average. Detailed timelines for extensions are mentioned by Parties in their national reports, together with timelines for communicating a refusal or the extension of the deadline.

[18] See https://ec.europa.eu/transparency/regdoc/fmb/formulaire.cfm?CL=en.

Grounds for refusal of a request for environmental information (article 4, paragraphs 3 and 4)

76. Most reporting Parties mentioned that requests for environmental information can be refused if stated in a too general manner or if they are manifestly unreasonable. In Greece, public authorities can ask for clarification if the request is formulated in a too general manner, while in Albania and Norway and at the level of EU institutions, the officials are required to ask for clarification of the request. In Bulgaria the applicant is given an opportunity to specify the scope of the requested information.

77. The legislation in the majority of reporting Parties provides grounds for a refusal to provide environmental information, for example, if the information comprises an internal communication, a state secret, intellectual property rights, commercial or industrial secrets, personal data, raw data, concerns interests of national defence or public security, or disclosure would pose a threat to the environment. In addition to the exemptions above, some Parties have introduced additional exemptions to the right of access to environmental information. For instance, in Poland, information on projects that may significantly affect the environment and are carried out in enclosed areas and not subject to public participation, is not disclosed. In Slovakia, access to information is restricted if it concerns documentation the publication of which may support the planning or execution of activities aimed at causing disturbance or destruction of a nuclear facility, facilities of significant importance or other important facilities pursuant to special regulations (e.g. Act on Defence of the Slovak Republic).

78. The application of a public interest test for the disclosure of environmental information is claimed by the following Parties: Austria, Belgium, Bulgaria, Croatia, Denmark, EU, Germany, Hungary, Ireland, Italy, Montenegro, Norway, Poland, Romania, Serbia, Slovenia and Ukraine. In Sweden, public authorities can exercise their far-reaching right to freedom of expression, including a right to disclose information subject to secrecy in order for the information to be published in the media. In Germany, public authorities face difficulties when assessing whether the corporate data constitutes commercial or industrial secrets, which in line with private interests in confidentiality should be protected, or whether, in line with the public interest, the information should be disclosed.

79. Information on pollution and/or emissions into the environment cannot be classified as confidential and should be made publicly available according to the legislation of the following Parties: Belgium, Bulgaria, Croatia, EU, Finland, Germany, Latvia, Lithuania, Montenegro, Norway, Romania, Serbia, Slovakia, Slovenia and Sweden. In France, if the request for information relates to information on emissions, the public authority can reject the request on the grounds of foreign policy, public security or national defence, judicial proceedings or investigation or intellectual property rights. In Denmark, information on emissions can only be exempted from disclosure on the grounds that such a disclosure would lead to significant financial damage to the enterprise concerned, and this needs to be proved by specific documentation. Georgia made reference to its laws stating that information related to environmental protection and data on hazards posing a risk to human life and health could not be classified as confidential. In Belarus, the new Law "On Commercial Secret" excludes from the notion of "commercial secret" data on the state of the environment, or data which might affect the safety of the operation of industrial facilities or the safety of population.

Information requests submitted to an authority which does not hold the requested environmental information (article 4, paragraph 5)

80. All Parties reported the existence of legislative provisions obliging an official who does not hold the information requested to either return the request to the applicant with advice concerning the authority that might hold such information or to transfer the request

to the appropriate authority likely to hold the requested information. The laws of the majority of Parties foresee deadlines and procedures for such replies.

Ensuring access to non-confidential environmental information forming part of requested environmental information deemed confidential (article 4, paragraph 6)

81. The majority of reporting Parties cited legislative provisions obliging public authorities, where the information requested is exempted from disclosure, to grant access to the rest of the information not exempted from disclosure with separation of the "restricted access" information (if possible). Such a practice corresponds with the provisions of article 4, paragraph 6, of the Aarhus Convention.

Refusal of a request (article 4, paragraph 7)

82. All the reporting Parties had legislative provisions setting out the requirements for a refusal to provide information, including the obligations to state the reasons for the refusal, to provide guidance on the appeal procedure and to communicate the information in writing to the applicant. Parties set time limits for refusals ranging from three days up to one month, with a possible extension up to a maximum of two months. Some Parties mentioned problems faced with the so-called "silence procedure" (when no response is received by a certain deadline, it is to be considered, by law, as a refusal), as, in the absence of a written refusal it can be difficult to pursue administrative appeal on the grounds that such a refusal was not delivered on time. A few options are available for applicants for violations of access to information procedures, including an appeal to a higher body or official, to a special designated body or official or directly to the courts.

Charges for supplying information (article 4, paragraph 8)

83. Keeping in mind relevant provisions of article 4, paragraph 8, of the Aarhus Convention, the majority of Parties enacted legislation regarding charges for services associated with providing access to information. Such services might include: making a copy of the document; searching for and sending documents to the applicant; providing publications; saving information on CD-ROMs or flash drives/USB keys, etc. As a rule, information is made available online, in public databases, and electronic copies of documents are provided free of charge. Special regulations on charges for access to information were adopted in almost all the countries, while a few Parties mentioned in their national reports the exact rates for photocopying and other services related to provision of information to applicants (e.g., Denmark, Estonia, EU, France, Latvia, Poland and Sweden). A few Parties mentioned the rule for charging for providing copies to the applicant starting from the fifth, tenth or twenty-first page. Poland introduced fees for finding information, not only for scanning and making copies of it, which creates confusion among NGOs. In Bosnia and Herzegovina, NGOs complained about being charged for copying of materials, even in electronic form, and there is no Government regulation setting out fees for copying services. The Republic of Moldova reported on the exemption of payment of fees if the information requested directly influences the rights and freedoms of the applicant or if it is in the interest of society. Fees for provision of information could be waived in Montenegro for applicants with disabilities and/or socially vulnerable groups, and in Serbia where the protection of public health or the environment was at stake.

84. National reports overall indicate a positive trend in terms of making information available to the public via the Internet, the web pages of public authorities, online databases and unified online environmental information portals, which consequently decreases the amount of information requests addressed to the public authorities. In many countries in Eastern Europe, the Caucasus and Central Asia it was reported that there is still not enough information made available through the Internet, while in the EU countries and Norway

electronic resources are increasingly utilized for providing information. E-government is making access to environmental information more user-friendly, faster and more transparent. The Netherlands reported on a recent initiative of sorting, digitalizing and arranging data to make it more understandable to users. The newly created "Environmental Atlas" portal is a good example of such efforts.

Additional obstacles in implementing article 4

85. Obstacles to access to certain types of information still exist in Parties of the EU and Norway subregion, Eastern Europe, the Caucasus and Central Asia and SEE as well. In the Slovak report, NGOs allege violation of article 4 of the Aarhus Convention because of limitations on access to documents and information on nuclear issues. Slovenia mentioned problems with access to documents protected by copyright. In Spain the disclosure of environmental information is restricted for information related to intellectual property and commercial secret (for instance, the location of fields of GMOs). Similarly, broad protection to industrial information is applied in Greece. NGOs in Estonia complained of the frequent classification of information as internal communications, and consequently being refused access to it. Serbia mentioned the need to regulate further restricted access to commercial and industrial information related to the preparation of EIA studies. NGOs in the Czech Republic mentioned problems with the extensive number of exemptions granted (particularly regarding business secrets) and the charging of unreasonable additional costs for the provision of information.

86. Parties reported on issues in meeting the deadlines for providing information, as well as in responding in due time to applicants in relation to the extension of a deadline or to give grounds for refusal of access to information or additional guidance on the appeal procedure. The public authorities often lack the human, technical and financial resources to ensure the timely provision of information.

87. Austria made reference to the findings of the Aarhus Convention Compliance Committee concerning the country's lengthy review procedures in cases of violation of access to environmental information. Norway mentioned the communication sent to the Compliance Committee in June 2013 concerning violation of article 4 of the Aarhus Convention.

88. The EU provided recent case law of the Court of Justice of the European Union and national courts concerning interpretation of the Transparency Regulation[19] and the Environmental Information Directive, as well as decisions of the European Ombudsman in cases of violation of the right to information.

C. Collection and dissemination of environmental information (article 5)

General provisions (article 5)

89. Almost all reporting Parties made reference to the numerous legal norms regulating collection and dissemination of environmental information in different areas by various means and by different public authorities, non-governmental institutions and organizations. Parties from the EU and Norway have developed detailed legislative provisions to transpose the EU directives and regulations. While countries in Eastern Europe, the Caucasus and Central Asia have their own legislation to implement the main provisions of article 5, practical implementation of such norms faces financial and technical obstacles.

[19] Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

90. In terms of the collection and dissemination of environmental information, Parties from the EU and Norway emphasized the use of electronic resources, the digitalization of administrative services and documents (information) and the improvement of existing electronic tools to make them more user-friendly. Parties from Eastern Europe, the Caucasus and Central Asia and SEE reported on improving web pages, electronic databases and registers (including cadastres). In addition, these countries reported an active engagement of Aarhus Centres in the collection and distribution of environmental information to the public, as well as in awareness-raising activities for the public authorities and the public, which resulted in increasing the amount of environmental information available to the public.

Possession, updating and dissemination of information by public authorities (article 5, paragraph 1)

91. All Parties reported that their environmental authorities are obliged by law to possess and update environmental information. Parties from the EU and Norway reported on maintaining and further improving consolidated online databases (portals or systems) making environmental information available to the public in a single place and free of charge (e.g., Croatia, Estonia, EU, Germany, Greece, Hungary, Latvia, Lithuania, Netherlands, Norway, Poland, Romania, Slovakia, Sweden and United Kingdom). In a few countries of Eastern Europe, the Caucasus and Central Asia and SEE such consolidated online databases are being planned (e.g., Armenia, Bosnia and Herzegovina, Georgia, Montenegro, Republic of Moldova and Tajikistan).

92. Electronic databases, registers, cadastres of water, soil, air pollution, waste generation, biodiversity and protected areas (Natura 2000 sites) continue to be developed, run, improved and put online by all reporting Parties, offering public opportunities to assess this data either online or upon request. The vast system of databases and registries comprising the National Environmental Information System is maintained by Hungary, including, inter alia, data on groundwater and soil, municipal waste disposal registries, surface water quality, surface water emissions, air quality, waste management, nature conservation and integrated pollution prevention and control (IPPC) and pollutant release and transfer register (PRTR) information systems. Denmark launched its INSPIRE geoportal to publish spatial data for the general public. The Croatian Environmental Information System includes information classified into 44 databases and divided into 11 thematic subsystems. In 2013, Estonia launched an online Water Health Information System, which includes data on drinking, bathing, bottled and mineral water, as well as swimming pool water. In Ukraine, access to the information on land resources and maps was opened to the general public in 2013 with the launch of the National Registry System of Land Resources online.

93. Parties said they collect data on monitoring of water, air, soil and waste and store them using electronic databases and systems. Several Parties in Eastern Europe, the Caucasus and Central Asia mentioned interconnectivity issues between the various monitoring systems operated by different governmental or non-governmental agencies (e.g., Armenia, Georgia and Republic of Moldova), while Belarus reported on the exchange of information and data between the national systems for monitoring the environment, health and natural and man-made emergencies. Existing systems of environmental monitoring are being improved and digitalized for easier access by the public (e.g., Belarus and Ukraine).

94. A few Parties reported on mandatory systems for informing public authorities of planned and existing activities that may significantly affect the environment. A small number of Parties from the EU and Norway subregion reported the existence of online databases dedicated to EIA and strategic environmental assessment (SEA) procedures (e.g.,

Czech Republic and France). In 2013, Latvia launched the State Environmental Service, which includes an online register of issued permits, licences and technical regulations open to the public; Estonia supports the same practice. Romania's environmental ministry operates an online EIA database on its web page.

95. Parties reported on different warning systems in case of emergency, accidents, natural disasters or excessive pollution that obliged operators to immediately channel information to the public and local authorities. These authorities are in turn obliged to inform the public immediately regarding any serious threats to life, health or the environment. Such systems include alerts in case of floods, high waters, serious air or water pollution, etc. The information should be distributed by all possible means of communication, inter alia, through radio, television, telephone, e-mails and newspapers, immediately and without delay. Smog and heat alarms operate in Hungary, ozone smog warning systems were established in Slovakia and smog alerts are foreseen in Poland.

96. A few Parties mentioned their legal and practical framework for informing the public about accidents at nuclear facilities (e.g., Slovakia and Sweden). In Sweden, the distinct feature of a separate warning system is that the warning to the general public can be triggered by the operator at a very early stage of an accident.

Arrangements for effective access to environmental information (article 5, paragraph 2)

97. The majority of Parties reported on measures taken to make environmental information effectively accessible to the public by posting lists of the information and data held by the authorities on web pages, describing how to access information from the authorities by different means and by designating contact points. The amount of information available to the public online in electronic form differs between Parties, but the tendency is to make ever more environmental information available in electronic format through the Internet. Armenia and Tajikistan had environmental information centres within their environmental ministries tasked with the collection and dissemination of information and publication of newsletters. Kazakhstan established a State Fund of Environmental Information aiming to create and maintain electronic databases and registers and making them publicly available through the Internet.

Access to environmental information in electronic form (article 5, paragraph 3)

98. Almost all reporting Parties indicated the possibility for the public to access texts of legislative acts, environmental agreements, strategies, plans and programmes and other documents related to the environment through the Internet via the web pages of governmental agencies, using free public legislation databases run by the responsible State agencies. Aarhus Centres in countries from Eastern Europe, the Caucasus and Central Asia and SEE sometimes facilitate the provision of electronic environmental information to the public.

Regular publishing and dissemination of national reports on the state of the environment (article 5, paragraph 4)

99. Reports on the state of the environment prepared by the Parties are available to the public mainly in electronic form and are downloadable from the web page of environmental authorities and Aarhus Centres. A few Parties mentioned distribution of paper versions of such reports through libraries, public agencies, NGOs and other means. Some Parties submit their national reports on the state of the environment to the Government or parliament for consideration or approval (e.g., Bulgaria, Czech Republic, Germany, Montenegro and Serbia). Several Parties also mentioned preparation of regional reports on

the state of the environment by regional environmental agencies on an annual basis (e.g., Belgium, France, Germany, Hungary, Poland, Romania, Slovenia, Spain and Ukraine).

Dissemination of legislation and policy documents and international instruments and documents (article 5, paragraph 5)

100. Dissemination of legislation and policy documents, international agreements and treaties and other significant international documents on environmental issues is foreseen in the legislation of all the reporting Parties. The means of dissemination and the amount of information available to the public varies between Parties. All reporting countries said that publication of legislative acts was mandatory, and that dedicated and publicly available web pages and databases containing such legislation were maintained free of charge. France mentioned that information on environmental law and free consultation with a lawyer could be obtained through community justice centres or legal access centres at the department level.

Encouraging operators to inform the public (article 5, paragraph 6)

101. The legal obligation for operators of facilities whose activities have a significant impact on environment to inform the public regularly on the environmental impact of their activities and products is mentioned by a few Parties from the EU and Norway subregion (e.g., Austria, Denmark, Latvia, Lithuania, Romania and Slovakia), while all the Parties reported on the legal norms requiring such operators to submit the information on their environmental performance, the level of emissions, discharges, waste generation, etc., to public authorities, statistical offices and local authorities. In Sweden, annual environmental reports of operators can be submitted electronically through the Swedish Portal for Environmental Reporting.

102. Parties from the EU and Norway mentioned voluntary arrangements with business resulting in eco-labelling, eco-auditing and environmental management and reporting practices as a result of the transposition of EU legislation. Eco-labelling practices are mentioned by the Parties from the EU and Norway as part of the EU eco-labelling scheme, while a few Parties from this subregion maintain their national labelling practices (e.g., Croatia, Denmark, France, Germany, Hungary, Ireland, Norway, Sweden and United Kingdom). Parties also noted their commitment to implementation of the EU energy labelling regulations. Italy reported the launching of a voluntary partnership with companies to evaluate their environmental footprint, involving 200 partners from the fashion, wine and food industries as pilot sectors.

103. The legislative framework for eco-labelling and environmental management systems in Eastern Europe, the Caucasus and Central Asia and SEE countries is still weak or absent. As an exception, voluntary eco-certification and eco-labelling are foreseen by legislation in Belarus, while the creation and operation of an Eco-Management and Audit Scheme (EMAS) is under way. In Kazakhstan, eco-labels under the Law "On Food Safety" were awarded to 74 companies. Serbia reported the introduction of an eco-labelling scheme and the promotion of EMAS and International Organization for Standardization (ISO) systems for industries on voluntary basis.

Dissemination of other relevant environmental information possessed by public authorities (article 5, paragraph 7)

104. Parties reported that the public has the possibility to access information and documents provided by public authorities in accordance with article 5, paragraph 7, of the Aarhus Convention. These documents are mainly available online and through the public authorities' web pages and are continuously being improved and updated. A few NIRs recorded complaints from the public on the complexity of information provided through

different electronic databases and web pages, thus several Parties had made efforts to improve and redesign their web pages and databases in this intersessional period. For instance, the Spanish environmental ministry changed its web page with a view to presenting environmental information in a more intuitive and dynamic way: indicators are displayed using graphics, and the web page contains definitions and notes and shows both the present condition and the evolution of the elements in the environment.

Availability of product information (article 5, paragraph 8)

105. Parties from the EU and Norway described their legislative provisions and practices aimed at disseminating sufficient product information to consumers, while a few countries in Eastern Europe, the Caucasus and Central Asia and SEE reported on basic legal regulations and practices on this issue. A few Parties from Eastern Europe, the Caucasus and Central Asia and SEE mentioned that producers were required to inform consumers about GMOs in products and food (e.g., Serbia, Kazakhstan, Kyrgyzstan and Ukraine). Sweden has a national system of certified environmental product declarations to ensure readily accessible, quality-assured and comparable information on the environmental impact of products and services. France requires operators of passenger, goods or removals transport services to notify users about the quantity of carbon dioxide emissions for their services.

106. The EU listed laws requiring producers to make information concerning the energy efficiency and energy performance of their products available to consumers.

Establishment of national systems of pollution inventories or registers (article 5, paragraph 9)

107. A few Parties in Eastern Europe, the Caucasus and Central Asia reported on initiatives and activities aimed at researching the possibility of establishing national PRTRs and on the creation of pilot versions of such registers. For instance, Belarus, Georgia and Kazakhstan mentioned the creation of trial versions of national PRTRs. The Republic of Moldova has ratified the Aarhus Convention's Protocol on Pollutant Release and Transfer Registers (Protocol on PRTRs) and is preparing for its implementation. The confidentiality of raw data is mentioned as an obstacle to the implementation of a PRTR in Kazakhstan. In the SEE subregion a few Parties are establishing the preliminary legal and technical basis for designing and operating PRTR systems (e.g., Albania and Bosnia and Herzegovina), while Serbia operates a National Register of Pollution Sources which covers, inter alia, pollution releases and transfers.

108. National PRTRs are run by the majority of Parties from the EU and Norway subregion (e.g., Austria, Belgium, Croatia, Czech Republic, Denmark, France, Germany, Hungary, Ireland, Latvia, Netherlands, Poland, Slovakia, Spain and Sweden). Romania does not have a national PRTR at present. National PRTRs are accessible to the public online for free with searching possibilities in several countries. For example, in 2012 Croatia launched a national portal for the Environmental Pollution Register with a geographic information system browser. In Spain, PRTR inventories of national and autonomous regions are in place and available online to the public.

Overall obstacles in implementing article 5

109. The majority of Parties reported they lack the human, financial and technical resources to implement modern systems of collection and distribution of information. Typical problems encountered with human resources include a lack of staff and their low computer literacy and proficiency in modern technologies. Some countries reported on poor system interoperability and information exchange between the information systems of different agencies. Environmental monitoring systems require constant updating and

upgrading in accordance with international standards. The use of television, newspapers and radio for the dissemination of environmental information is no longer seen as sufficient.

110. Comments of the public reflect that dissemination of information is often not adequate, the creation and updating of web pages and databases is often slow and environmental monitoring information available online is sometimes not reliable, understandable, available in full or consistent.

D. Public participation in decisions on specific activities (article 6)

General provisions

111. Parties reported on legislative measures in force regulating public participation procedures during environmental decision-making and on new or planned amendments to laws aimed at improving public participation procedures. Parties from the EU and Norway reported on their national legal framework enacted to transpose the EIA,[20] IPPC[21] and Industrial Emissions[22] Directives, as well as other EU regulations, which remained almost unchanged from the third reporting period.

112. For Parties in Eastern Europe, the Caucasus and Central Asia, the legal provisions for public participation consist mainly of laws on environmental protection and laws on ecological expertise, accompanied by public participation or public hearing regulations. The main procedures include EIA ("OVOS")[23] and ecological expertise. A few Parties in this subregion reported obstacles in the implementation of article 6 of the Aarhus Convention, including the lack of, or inadequate, procedures for public participation in environmental decision-making. A few Parties reported upon legislative developments. Draft laws regulating EIA procedures with public participation provisions were elaborated and sent to parliament for consideration in Armenia and the Republic of Moldova. In Ukraine amendments to the Law "On ecological expertise" abolished mandatory State ecological expertise for construction projects and deprived the public of opportunities to address their environmental protection concerns. A few Parties made reference to public ecological expertise, but its application in practice was not reflected in the reports (e.g., Belarus, Kazakhstan, Kyrgyzstan, Republic of Moldova and Tajikistan).

113. Bosnia and Herzegovina reported that its legislation on EIA and environmental permitting was not fully in line with the main provisions of article 6 of the Aarhus Convention. This created obstacles to effective public participation in the region during the conduct of EIA and the issuing of environmental permits and, as a result, the public's opinions and concerns were not properly reflected in final decisions.

114. Parties from Eastern Europe, the Caucasus and Central Asia and SEE mentioned the importance and involvement of Aarhus Centres in the facilitation of public participation during decision-making, sometimes assisting public authorities in the performance of their functions and obligations in this respect.

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[20] Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification).

[21] Directive 96/61/EC of the European Parliament and of the Council of 24 September 1996 concerning integrated pollution prevention and control.

[22] Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control).

[23] Procedure of environmental impact assessment conducted in countries of the former Soviet Union.

115. Armenia noted that, in response to the Aarhus Convention Compliance Committee's findings[24] that it had violated the provisions of the Convention on public participation, the Environmental Protection Ministry had developed a draft Law "On environmental impact assessment and expertise" which is now under consideration by the parliament. The Czech Republic also mentioned the findings of the Compliance Committee[25,26] concerning its violation of the Convention's public participation provisions. As a result, the Czech Government is planning to amend the legal regulation on permitting procedures. Slovakia provided information on the decision of the European Court of Justice (ECJ) on the participation of civil associations in proceedings regarding nature and landscape protection. The ECJ's decision had resulted in amendments of Slovak legislation in 2011, upgrading NGOs to the status of "party to the proceedings" from the status of "person concerned".

Applying provisions covered by article 6 (article 6, paragraph 1)

116. The majority of Parties reported the existence of legal provisions obliging authorities to apply article 6 provisions to decisions on certain types of activities listed in annex I to the Aarhus Convention. The approach taken by Parties to the application of article 6, paragraph 1, and the annex I list varies: some Parties reproduced the list set out in annex I in their legislation; some enlarged the list; and a few Parties mentioned that their national list of activities for which EIA (or an environmental permit) is mandatory and public participation procedures should apply is shorter than the list in annex I. Many Parties indicated the existence of two lists of activities, one listing activities requiring EIA (or an environmental permit) and the other containing activities for which EIA (or a permit) is not mandatory, but could be ordered by the decision-making body on a case-by-case basis during the screening procedure.

117. Parties from the EU and Norway mainly mentioned EIA and IPPC decisions that are subject to public participation provisions. Estonia provided an extensive list of environmental decisions (authorizations) requiring application of article 6 provisions, namely: building permits; integrated environmental permits; permits for water use; air pollution permits; water permits and licences; radiation practice licences; and extraction permits. Germany also noted that decisions on nuclear activities, on major planning and on large infrastructure projects — such as the construction of airports, railway lines, motorways, express roads, waterways, ports, landfill sites and pipeline systems — are subject to the so-called planning approval procedure, in which intensive public consultation is prescribed as mandatory. Concerning activities that are not listed in annex I to the Convention, Latvia reported that its Law on EIA of the Proposed Economic Activity stipulates that an EIA should be conducted where implementation of a proposed economic activity may affect Natura 2000 sites and the institution in charge of the site (area) determines that such an effect may be significant. Ireland noted in its NIR that article 6 is implemented through a combination of: (a) mandatory national thresholds for each of the annex I projects; (b) the requirement for case-by-case examination of the need for EIA in the case of sub-threshold development on sites of conservation sensitivity; and (c) the general requirement that sub-threshold projects likely to have significant effects on the environment must be subject to EIA. In Croatia the evaluation of the need for EIA is carried

[24] As reflected and adopted in decision IV/9a of the MOP on compliance by Armenia with its obligations under the Convention (see ECE/MP.PP/2011/2/Add/1).

[25] Findings and recommendations on communication ACCC/C/2010/50 concerning compliance by the Czech Republic (ECE/MP.PP/C.1/2012/11).

[26] Communications submitted to the Compliance Committee, and related documentation on them, including the findings and recommendations of the Committee, where these have been issued, are available from http://www.unece.org/env/pp/pubcom.html.

out for activities not listed in annex I if it is concluded that the proposed activity could have a significant effect on environment.

118. Paragraph 1 (c) of article 6 allows Parties not to apply provisions of public participation to proposed activities serving national defence purposes. A few Parties introduced exceptions from EIA procedures and public participation requirements, but for different reasons. Namely, Georgia mentioned that such an exception could be granted if State interest required it, and during 2010–2012 there were 27 such cases. In Spain, not only projects related to defence purposes, but also projects for exceptional reasons following approval by State law are exempted from the EIA procedure. Kyrgyzstan made reference to its national practice of allowing construction of facilities to be carried out in parallel with the development of project documentation, on the basis of governmental decisions in cases of urgent State interest.

Notifying the public (article 6, paragraph 2)

119. All Parties reported the existence of regulations regarding notification of the public at the start of the decision-making process. Parties have a practice of providing such information through the web pages of decision-making bodies, local authorities or municipalities, national and local newspapers and on television or radio. Some Parties mentioned other methods for dissemination of information: direct notification to the landowners and nearby inhabitants; placement of a notice board on the site of the proposed activity; and posting notification inside the building of a local agency or municipality or other public places. Estonia mentioned amendments to its laws which foresee notification to be posted in a newspaper and at least on one public building or site of the proposed activities. Latvia reported on the decision-making authority's practice of sending notifications via e-mail to a list of NGOs that indicated their interest in participation in the decision-making procedure. A few Parties have legislation that provides for the public to be informed in an effective, timely and accurate way. For example, Estonia enacted an Environmental Code in 2013 specifying that the public must be informed efficiently and in a way that does not cause unreasonable expense, yet ensures that information reaches the relevant stakeholders. Slovakian legislation in the sphere of EIA ensures that the public is informed from the very beginning of the procedure in an adequate, early and efficient way. In 2013 Germany enacted changes to its federal Administrative Procedure Act obliging public authorities to seek to ensure the project applicant (in large-scale projects) informs the public concerned at an early stage.

120. Parties also gave details on the information that should be included in the notification to the public under article 6, paragraph 2, of the Aarhus Convention.

Time frames for public participation procedures (article 6, paragraph 3)

121. The majority of Parties reported legal provisions foreseeing various time frames for public participation in the decision-making process, including: between the notification of the public about the submission of the application to the decision-making body and the conduct of a public hearing; for the submission of public comments; for access to and assessment of the documentation presented; and for participation in different decisions (EIA, permitting, town planning, etc.). The time frames range from two weeks to one month on average, and are claimed by Parties to be sufficient and adequate. For example, for the screening stage the public is given 20 days in Latvia and 45 days in Italy for the submission of opinions. In Germany the public can lodge objections against the project in writing during the two-week period after the expiry of the one-month examination period (i.e., in which the application and supporting documents are made available to the public). In Sweden and Poland the public has 21 days to submit comments; in Georgia, 45 days; in Italy the public is given 60 days for the submission of written comments; and in Bosnia and

Herzegovina, Hungary, Latvia and Spain the public may comment within 30 days from the notification. In France public debate (an in-depth form of prior consultations), conducted for the most significant projects, generally lasts four months. In Belgium and Bosnia and Herzegovina the notification on the project should be given 15 days before the public hearing (meeting); in Kazakhstan, 20 days in advance; and in Bulgaria and Hungary notice on the public hearing should be given no later than 30 days before the meeting, and the EIA documentation should be accessible to the public during that 30-day period as well. Kyrgyzstan reported on the practice of giving notice of the hearing two months in advance, while in Georgia the time frame was 50 days. The public is given up to 7 days after the public meeting to send comments in Bulgaria, 15 days in Belgium and one month in Kyrgyzstan. The Republic of Moldova and Romania mentioned a 30-day examination period for EIA documentation. In Ireland the public participation period for EIA lasts five weeks, while in Croatia the duration is defined by the environmental ministry for each individual project on a case-by-case basis.

Early and effective public participation (article 6, paragraph 4)

122. Most reporting Parties claimed to have introduced legislation and procedures to ensure public participation at an early stage, when all options are open and effective public participation can take place. The majority of Parties were silent on the different options available to the public to participate early. As an exception, Spain mentioned that options regarding substance, size and definition of the project are open to the public at the beginning of the EIA process. In contrast, Kazakhstan noted that currently public participation was only possible at the stage of approval (consent) of the draft EIA, and that necessary amendments are therefore planned to a few laws foreseeing the holding of public hearings during the allocation of land plots or subsoil for activities listed in annex I to the Convention. Similarly, Kyrgyzstan reported that alternative technological and siting options for facilities contained in the EIA documentation should also be subject to public participation.

123. Parties from the EU and Norway subregion indicated in their reports the possibility for the public to participate early in the environmental permitting (authorization) process starting from the screening stage of the EIA procedure. In Italy, Hungary and Romania the public has the possibility to consult on the screening decision; in Lithuania the public can only make proposals for the reconsideration of the screening conclusion after being informed about it. In Germany, public authorities should seek to ensure that the public concerned is informed at an early stage about the project's aims and the means to implement it, while the public has to have opportunities to discuss it. Sweden also encourages operators to inform the public about their projects in advance, before the start of public consultations. In addition, public authorities in Sweden can convene a scoping meeting, inviting recognized environmental associations, experts and local authorities to determine the scope of the EIA.

124. Parties reported they are also ensuring early public participation during decision-making on specific activities (i.e., adoption of an EIA report or obtaining a permit or licence).

125. A few Parties from the EU and Norway subregion reported that ensuring early public participation has improved since the previous intersessional period, and that it can be considered efficient and sufficient. For instance, Hungary explained that early and effective participation is ensured in the preliminary phase of EIA procedures (screening) and, if requested, in the framework of preliminary consultations. Romanian legislation requires notification on the submission of an application (for a permit or a decision), and public consultations at the screening or scoping stage. In Austria, early participation is ensured in

EIA procedures by public announcement of the project and allowing at least six weeks for the public to submit comments.

Encouraging prospective applicants to identify the public concerned (article 6, paragraph 5)

126. In some countries the obligation to identify the public concerned is vested in the decision-making body (e.g., Bulgaria). The rest of the Parties did not specify which body or individual, if any, must identify the public concerned. A few Parties mentioned the obligation or practice of the applicant or developer to inform the public about the planned activity or project and to conduct consultations before the application for a permit or approval (e.g., Austria, Germany and Spain).

Access to information relevant to the decision-making (article 6, paragraph 6)

127. Parties said they have legal regulations allowing public access to all relevant information concerning proposed activities. Such information includes EIA documentation (EIA report), copies of applications for permits or licences, documents setting out the position of the administrative authorities, expert opinions and supporting documents. A few Parties mentioned that the public should have access in advance to the draft decision prepared by the decision-making body and be able to discuss it. Some Parties also made the minutes of the public meetings public. Inspection of documentation by the public could be done for free, while provision of copies or extracts could be charged, as reported, for example, in Ireland. Some Parties provided information related to the decision-making through the Internet. For instance, Poland hosts a publicly accessible data register with information on applications and accompanying documentation. Austria has a similar EIA database with online access for the public.

128. Some Parties mentioned legal norms restricting access to documentation during public participation procedures on the basis of State or commercial secret, or in the interest of defence (e.g., Armenia, Georgia, Hungary and Kyrgyzstan).

Procedures for submission of comments by the public (article 6, paragraph 7)

129. Parties have legislative provisions allowing members of the public to submit their comments in writing, orally during public hearings or by other means specified by separate national provisions. The public is given certain time frames for submission of their comments to the decision-making body before the final decision is taken, which corresponds to the provisions of article 6, paragraph 7, of the Convention. Such deadlines vary from Party to Party and range from 15 to 45 days (e.g., in Georgia) to 60 days (e.g., in Italy). In the EIA process of some Parties, the public submits their comments to the applicant, which in turn has to take them into account during the preparation of the final version of the EIA report (e.g., Georgia). Lithuania has legislative provisions obliging the drafter of the EIA report to register all public proposals, to evaluate them and to prepare replies in writing to the authors of such proposals. Ireland mentioned in its national report that public submission or observations on planning applications could be done on the payment of a prescribed fee.

Taking due account of the outcome of the public participation (article 6, paragraph 8)

130. Parties reported on legal requirements obliging decision-making authorities to consider, evaluate and/or take into account the comments received from the public in the final decision. Many Parties, mainly from the EU and Norway subregion, explained how the final decision should outline the results of the public participation, setting out the reasoning behind the consideration of the comments and which of the various comments are and which are not reflected in the final decision. During the EIA process comments from

the public could be forwarded to the developer of the project and/or the author of the EIA documentation, who should give them thorough consideration and take them into due account as well. For instance, in France and Spain the comments and proposals of the public are to be taken into consideration by the developer and the authority responsible for taking the decision. In Lithuania the author of the EIA report registers all the proposals from the public during the whole EIA process, evaluates them, prepares a reasoned evaluation and replies in writing to the members of the public who submitted them. Authorities can also oblige an applicant to amend proposed activities after considering public opinion (e.g., in Latvia). As reported by some Parties, their national regulations foresee the publication of the minutes of public hearings, public participation outcomes and the position of the decision-making body. The law in Latvia stipulates that the public authorities must evaluate the comments received in the light of the need to balance individual rights and interests with public gains and losses, while observing the sustainable development principle.

131. For instance, Estonia and Lithuania reported that the persons submitting proposals receive feedback from the authority on whether their proposals were taken into account or not. In contrast, Bosnia and Herzegovina reported there is no legal obligation of the decision-making body to consider and incorporate comments from the public in the final decision (approval of EIA study), but the ministry in charge is obliged to forward its assessment of the objections received from interested members of the public to the project coordinator, including its own standpoint regarding the objections and, if necessary, to instruct the project coordinator to make some alterations and additions to the study.

Promptly informing the public of the decision (article 6, paragraph 9)

132. Parties reported on different procedures in place to implement article 6, paragraph 9, of the Aarhus Convention concerning promptly informing the public of the decision of the authorities on a specific activity. Some Parties mentioned in their reports the obligation of the decision-making body to publish its decisions. The majority of Parties mentioned the obligation to inform the public of the decision and give reasons for a decision by making it available on the web page or in the print media. Parties also noted that their decisions are available to the public upon request. For example, Lithuania reported that its Environmental Protection Agency must publish the electronic version of a permit on its web page not later than three working days after its issuance, and in addition must provide the following information: the reasons on which the decision is based; the results of the consultations held; and an explanation as to how the consultations were taken into account when adopting a decision.

Ensuring public participation in the reconsideration or update of operating conditions (article 6, paragraph 10)

133. Parties have legislative provisions in force demanding the application of the public participation provisions mentioned above in the decision-making process for the reconsideration or update of the operating conditions of an annex I activity, such as where there are significant changes in the operating process or where the activity is terminated.

Public participation in decision-making on permitting the deliberate release of genetically modified organisms (article 6, paragraph 11)

134. Issues regarding decision-making on GMOs, treated in paragraph 11 of article 6, are discussed in detail in section H below.

Making institutional changes to better address public-participation in decision-making

135. A few Parties mentioned the interesting practice of creating dedicated units or agencies to deal with public participation. For instance, Germany established a new directorate at the federal environmental ministry to handle "civic participation" in order to strengthen public participation in decision-making, in particular for large-scale projects. France mentioned the operation of National Public Debate Commission, an independent administrative authority that organizes public consultations and ensures that the public can participate in the whole process and is properly informed. The Commission can decide there is no need to have a public debate and can appoint a guarantor to oversee the consultation procedure performed by the developer. In addition, the French National Association of Public Inquiry Commissioners plays an important role in gathering, formulating and channelling public opinion and comments to the decision-making bodies and developers. In Spain, the Autonomous Communities have set up ad hoc bodies of participation as part of their administrative structure.

Obstacles encountered in implementation of article 6

136. Obstacles to the implementation of article 6 remain. Most often Parties reported on: limited access to relevant documentation for the decision-making process; the poor quality of such information; short time frames; the formality of public hearings; late or no notification of the public; and comments received not being duly taken into account. A few NGOs highlighted the complexity and volume of the publicly available EIA documentation, which was almost impossible to analyse and assess (for instance, with the aid of the experts involved) within the fixed time frames (e.g., Croatia, Estonia, France, Hungary and Spain). A few Parties indicated in their reports that there was no legal basis for early and effective participation (e.g., Slovenia). An NGO from Iceland commented on the absence of opportunities to participate in procedures for the initiation of a review of an existing EIA or in evaluating whether or not a new impact assessment is needed under Icelandic legislation.

E. Public participation concerning plans, programmes and policies relating to the environment (article 7)

EU and Norway

137. Parties from the EU and Norway mentioned that their legal framework for public participation during the elaboration of plans, programmes and policies is based on the relevant EU legislation — the SEA Directive,[27] the EIA Directive and the Public Participation Directive.[28] Parties also made reference to the relevant legislative provisions on public participation contained in spatial planning, water, air, noise, waste and natural resources laws, which require further elaboration of the procedural aspects. The majority of Parties mentioned legislation on SEA and the related public participation requirements, while the application of those requirements differs from country to country. Some Parties made no reference to the application of SEA at all (e.g., Greece). Some Parties enacted by-laws on public participation in spatial planning. A few Parties mentioned law-drafting procedures (rules) which include possibilities for the public to influence policies and

[27] Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment.

[28] Directive 2003/35/EC of the European Parliament and of the Council providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment.

programmes relating to the environment. Some Parties put in place practical and/or institutional provisions for public participation. These Parties strive to make the framework even more fair and transparent by further improving their legal framework, creating additional opportunities and using electronic tools (e.g., Austria, Bulgaria, Estonia, Finland, Italy, Netherlands, Spain and United Kingdom).

Eastern Europe, the Caucasus and Central Asia

138. In Eastern Europe, the Caucasus and Central Asia, the rights of the public to participate in the development of plans, programmes and policies are declared by law, but regulation of the procedures is inadequate or absent. The practice of public participation in the preparation of plans, programmes and policies is not systematic and varies from country to country. SEA is not applied by Parties (only Armenia mentioned ratification of the Protocol on Strategic Environmental Assessment to the ECE Convention on Environmental Impact Assessment in a Transboundary Context). Parties reported mainly on the involvement of the public in spatial planning and local level development plans and in drafting policies and strategies related to the environment by the ministries. A few Parties mentioned the operation of special advisory consultative bodies (Public Councils) aimed at public participation in the preparation of policies and/or plans (e.g., Azerbaijan, Belarus), while some are planning to establish these bodies (e.g., Armenia).

South-Eastern Europe

139. In the SEE region Parties reported on laws on SEA and EIA with respect to plans and programmes and spatial planning and sectoral norms prescribing participatory rights in the preparation of plans related to the water, air, noise, waste and nature protection sectors. Regulations on SEA do not include public participation provisions, but the public is allowed to participate in spatial planning in Bosnia and Herzegovina. Montenegro and Serbia reported on the wide application of SEA instruments allowing for public consultations at the national and local levels for a variety of plans and strategies.

Procedures, tools and instruments for public participation

140. Local Agenda 21 was mentioned by a few Parties as an instrument to boost awareness and public participation in decision-making at the local level (e.g., Austria, Czech Republic, Italy and Spain).

141. Many Parties reported on the operation of special consultative/advisory bodies that are actively involved in the preparation of plans, programmes or policies in the environmental sphere (e.g., Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Croatia, France, Hungary, Italy, Latvia, Poland and Spain). These bodies are systematically informed, consulted and involved in drafting by the agencies responsible for drafting such documents. For instance, in 2012 France created a National Council for Ecological Transition chaired by the Minister of Environment and responsible for providing opinions on the draft legislation relating to the environment. Some Parties also mentioned the establishment of special working groups, including NGO representatives, aimed at the preparation of draft plans or programmes (e.g., Croatia and Latvia).

142. Public participation procedures used by Parties to collect public opinions consist of specific stages: notification of the public; provision of access to or publication of the draft plan, programme or policy; draft environmental impact reports; public hearings (in the majority of countries); and submission of comments to the decision-making body, which is obliged to take due account of them in its final document. The public is also entitled to be informed about the decision after its approval and to learn how the results of the public consultations were taken into account by the body approving the plan, programme or policy, along with the reasoning for their consideration. A few Parties mentioned the time

frames for the public to inspect and analyse documents and draft decisions and for the submission of their comments, which range from two weeks (e.g., in Belarus and Estonia), to 21–30 days (e.g., in Germany, Hungary, Montenegro and Poland) and 60 days (e.g., in Belgium and Italy). Notifications are performed via the print media (local and national newspapers) and on the website of the agency, ministry and municipality.

143. Parties also reported on the use of electronic tools for public participation procedures, especially for the provision of information. For instance, a few Parties noted that they conducted Internet-based consultations for policies developed at the national level (e.g., Finland), but their effectiveness is sometimes questioned (e.g., Kyrgyzstan and Netherlands). Special electronic databases on SEA allowing access to all SEA-related information are maintained by a few Parties (e.g., Czech Republic, Slovakia and United Kingdom). Spain mentioned the active use of social networks for the dissemination of information to the general public, such as Facebook.

Obstacles encountered in implementation of the article 7

144. Almost a quarter of reporting Parties indicated in their national reports that there were no obstacles to the implementation of article 7. The rest mentioned some problems encountered by Parties and NGOs, namely: low public participation and the low quality of public comments; a formalistic approach to public consultations and notifications; the absence of feedback from State authorities; no due regard taken of the public's comments by the bodies responsible for the preparation of plans, programmes or policies; and financial difficulties of State authorities. Reports also cited claims from the public that they were not involved in decision-making at an early stage when all the options and alternatives were open.

145. Albania mentioned a case considered by the Aarhus Convention Compliance Committee concerning violation by Albania of articles 6 and 7 with regard to public participation.[29] Ireland and the EU mentioned a case against the EU considered by the Compliance Committee in 2012 questioning compliance by Ireland with article 7 provisions.[30]

F. Public participation during the preparation of executive regulations and/or generally applicable legally binding normative instruments (article 8)

Legislative provisions

146. The NIRs indicate that some Parties have a long tradition of public participation in the preparation of executive regulations and/or normative instruments, while for others public discussion and input on such regulations and instruments is random and not systematic. A number of Parties reported that already had in place legislative provisions to allow the public to participate during preparation of executive regulations and other generally applicable legally binding rules and that these have not been changed during the reported period. In contrast, Parties from Eastern Europe, the Caucasus and Central Asia

[29] See findings and recommendations on Communication ACCC/C/2005/12 with regard to compliance by Albania (ECE/MP.PP/C.1/2007/4/Add.1).

[30] See findings and recommendations with regard to communication ACCC/C/2010/54 concerning compliance by the European Union (ECE/MP.PP/C.1/2012/12).

mentioned a lack of the necessary legal provisions and regulations for ensuring effective public participation at the parliamentary and governmental levels.

Procedural stages

147. The majority of Parties described practical arrangements instituted to make public participation possible and easier. Procedural stages of public participation in the drafting of legislation include preparation of the draft act or regulation, and a few Parties mentioned the possibility for NGOs to participate in the working groups established for this purpose (e.g., Bulgaria, Latvia, Lithuania, Montenegro, Serbia and Slovakia). Notification of the public of the drafting process, on the draft and on modalities for public participation is undertaken by almost all reporting Parties. For this the Parties use the web pages of the decision-making bodies or the bodies responsible for the preparation of the normative instrument, special web pages for public discussions and electronic legislation databases. Publication of draft acts and notifications of public discussions are also distributed through the print media in the case of a few Parties (e.g., Albania, Montenegro and Tajikistan). Many Parties, mainly from the EU and Norway subregion, mentioned the possibility of electronic consultations and online submission of comments and proposals. Reports indicate the popularity of electronic tools, which has prompted the creation and improvement of the web pages of public authorities at the national and local levels and also the creation of special web pages dedicated to public debate. For instance, in Slovakia all draft acts are posted on the Legal Regulations Portal, which provides the opportunity for members of the public to enter their comments online. Denmark operates a Common Public Hearing Portal where all information on public hearings is posted. The Estonian Ministry of Justice hosts an information system where all draft legislative acts are made available to the public.

Time frames

148. Parties reported on the fixed (either by regulations or through practice) time frames for public participation and discussion of drafts, which range between two to four weeks. A minimum of three months is given in Norway for public discussion to ensure that as many people can participate as possible. A short deadline — only 10 working days for the provision of comments on a draft law — was mentioned by Hungary as one of the main obstacles to substantial public participation in drafting legislation.

Consultative bodies

149. The existence of institutionalized consultative bodies with the participation of NGOs tasked to provide advice on draft laws or regulations was mentioned by many Parties. Such bodies are established on a permanent or an ad hoc basis and consulted during the preparation of acts and regulations. According to the national report of Croatia, its Government established the Office for Cooperation with NGOs, which facilitates public consultations. Bosnia and Herzegovina reported on the operation of the Environment Advisory Council, consisting of environmental NGOs and contributing to the preparation of legally binding acts.

Due account taken of public participation

150. A few countries mentioned the obligation of the body adopting a regulation or act to take due account of public opinion and the results of public consultations (e.g., Estonia, France, Latvia, Norway and Slovakia), while other Parties mention no such legal obligation.

Obstacles

151. Around half of the Parties reported an absence of obstacles in the implementation of article 8, while the rest mentioned that several problems had been encountered (from the side of the public authorities and NGOs), namely: short time frames for consultations and the provision of comments; the absence of feedback from the public authorities on the comments submitted; no indication that due account was taken of the public's comments in the final act or regulation; and participation not occurring at an early stage.

G. Access to justice (article 9)

General provisions

152. Parties provided very detailed lists of legislation covering the issue of access to justice, consisting of the Constitution, procedural administrative, civil and criminal codes, specific environmental laws and regulations, and rules regulating the functioning of the different State authorities. Parties with autonomous regions reported on the legislation of such entities as well, and Parties with federal systems reported on the state, provincial or regional-level legislation. Several Parties mentioned the direct application of Aarhus Convention provisions (e.g., Bulgaria, Croatia, Finland, Georgia, Latvia, Republic of Moldova and Ukraine), while other Parties noted the importance of developing national legislation to transpose provisions of the Aarhus Convention in their national legal systems.

153. Parties from the EU and Norway reported on their legislative framework concerning implementation of article 9 of the Aarhus Convention. Legislation of those Parties underwent only slight changes during the reporting period: neither the judiciary (except in Croatia and Romania), nor administrative institutions were subject to substantial changes. Parties made efforts to enact regulations to reduce court fees, speed up administrative and court proceedings, grant standing to environmental NGOs and initiate or improve free legal aid systems (e.g., Austria, Czech Republic, EU, Ireland, Latvia, Netherlands, Spain and United Kingdom). A few Parties made reference to national and EU case law concerning the enforcement of access to justice provisions.

154. In Eastern Europe, the Caucasus and Central Asia, Parties reported only slight progress in the implementation of article 9. Despite legal requirements for State authorities to directly apply the provisions of the Aarhus Convention it was mentioned that environmental NGOs suffered hardships in the realization of their right of access to courts. While access to administrative appeal in environmental cases was reported to be free of charge, its effectiveness was questioned.

155. In SEE, inadequate implementation of article 9 is reported by Parties. Some Parties reported on judicial reforms taking place (e.g., Albania and Serbia), which will improve access to justice in those countries. In addition, numerous awareness-raising activities, actively supported by Aarhus Centres, are taking place in the subregion targeting the general public, the judiciary, prosecutors and members of the legal profession.

156. Mediation was mentioned by Austria, the EU, Serbia and the United Kingdom as a possible remedy in cases where members of the public alleged their rights had been violated. In Austria, environmental mediation is a voluntary and structured procedure involving all those affected by a project, and its results have to be considered during EIA and later approval procedures. Kyrgyzstan mentioned the operation of mediation courts as an out-of-court procedure for the protection of rights and legal interests. In Norway, parties in dispute, except public authorities, may refer to the conciliation board which can settle various types of disputes.

157. Kazakhstan and Ukraine mentioned the possibility of addressing the prosecutor's office with a complaint regarding the violation of environmental legislation.

158. National reports cited a few cases that were or are under consideration of the Compliance Committee and relate to non-compliance with article 9 provisions, involving the following Parties: Armenia, Austria, Czech Republic, Denmark, Slovakia and United Kingdom.

Ensuring access to a review procedure (article 9, paragraph 1)

159. Almost all Parties reported that any member of the public whose rights to access to information have been violated has recourse to at least two forms of review procedure — administrative review or review by a court of law. In the majority of Parties the public can use an administrative review procedure to bring their complaint before the head of the authority or to a superior authority.

160. Most Parties from the EU and Norway also mentioned the operation of specialized bodies tasked with reviewing the compliance of the public authorities with legislation and administrative procedures regarding access to information (e.g., in Austria, the Independent Administrative Tribunal; in Croatia, the Information Commissioner; in France, the Commission on Access to Administrative Documents; in Lithuania, the Administrative Dispute Commission; in Italy, the Commission for Access to Administrative Documents; in Slovenia, the Commissioner for Access to Public Information; in the United Kingdom, the Information Commissioner). The mandate to deal with violations of access to environmental information is given to separate bodies in Belgium (the Federal Appeal Commission for Access to Environmental Information), Denmark (the Environmental Board of Appeal), Ireland (the Commissioner for Environmental Information) and Norway (Appeals Board of Environmental Information). Among the SEE countries, Montenegro made reference to the Agency for Protection of Personal Data and Access to Information and Serbia to a Commissioner for Information of Public Importance and Personal Data Protection in dealing with violations of the right to information.

161. The public can resort to Ombudsman institutions if their rights to information are violated in e.g. Albania, Armenia, Austria, Bosnia and Herzegovina, Denmark, Greece, Ireland, Italy, Kazakhstan, Kyrgyzstan, Lithuania, Norway and Sweden, but such bodies, as a rule, are not empowered to issue binding decisions. Austria reported on the work of its Ombudsmen for the Environment, set up as a regional body representing the cause of environmental protection in the federal provinces. The Ombudsmen's task is to ensure the protection of the environment in certain administrative procedures and therefore Ombudsmen have standing to lodge complaints with the administrative courts with regard to compliance with legal provisions that are relevant for the environment.

162. Access to administrative review is available free of charge as a rule (Denmark, Ireland and Hungary are exceptions, as reported in their NIRs). Unlike judicial decisions, decisions of administrative bodies empowered to consider cases of misconduct of public officials with regard to access to information or in the human rights field are not binding, but recommendatory in the majority of countries. Some procedures within administrative review bodies are reported to be prompt (from 10 to 30 days), whereas others have generated criticism on account of the excessive time taken for the consideration of cases (e.g., Austria).

163. In several reporting countries administrative review is obligatory before resorting to a court of law (e.g., Czech Republic, Poland, Slovakia and Slovenia), while in others persons can apply to the courts directly to protect their right to information.

164. All Parties reported that individuals or NGOs whose right to environmental information has been violated have access to a review procedure before a court. The

majority of Parties failed to mention the range of costs associated with judicial proceedings that could be borne by the applicant, but the court fees were stated to be quite low. All the Parties indicated the binding nature of court decisions, while the possibilities to appeal such court decisions in different countries vary.

Challenging decisions, acts or omissions not complying with article 6 provisions (article 9, paragraph 2)

165. All the reporting Parties indicated that members of the public concerned have a right to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6 and, where so provided under national law, of other relevant provisions of the Convention.

166. A number of Parties indicated that in order to have standing in court, as a rule, members of the public must show sufficient (legal) interest or impairment of rights by the challenged decision, act or omission (e.g., Armenia, Bosnia and Herzegovina, France, Hungary, Italy, Kyrgyzstan, Lithuania, Republic of Moldova and Romania). Legitimate interest, as defined by Italy, means a direct interest in the challenged administrative decision, but not that it is guaranteed as a legal right.

167. The legislation of Bulgaria and Serbia defines the public concerned for standing purposes as the public that is affected or likely to be affected by, or which has an interest in, the procedures for the approvals of plans, programmes, development proposals and the decision-making process on the granting or updating of permits according to the procedures established by law, or in the conditions set in the permits. This includes NGOs promoting environmental protection which are established in accordance with national legislation.

168. Only directly affected members of the public, whose rights were violated, are given standing in court concerning the decisions, acts of omissions of legal or physical persons in e.g. Austria, Azerbaijan, the Czech Republic, Georgia, Germany, the Netherlands and Slovakia. Prior participation in the decision-making that resulted in the adoption of the challenged act or decision is deemed by a few Parties as mandatory for the member of the public to be able to challenge the act in the courts. In Slovakia, members of the public can also receive the status of Party to the proceedings (and thus standing) either by legal norms or by participation in administrative procedures (e.g., permitting, EIA procedures) preceding litigation. In Poland only NGOs that have received the status of party to the administrative proceedings can have standing in court concerning the legality of those proceedings and the final decision.

169. The obligation to demonstrate only sufficient (or legitimate) interest for persons and/or NGOs to be able to go to court was mentioned by Bulgaria, Denmark, Ireland, Norway, Poland and the United Kingdom. The latter explained in its national report that if the person has a direct personal interest in the outcome of the claim they will be regarded as having sufficient interest in the matter.

170. Standing might not be granted to NGOs if they are not able to demonstrate a sufficient interest in or impairment of their right by the challenged decision, act or omission. Such problems were reported by several Parties. For example, in the Czech Republic NGOs have to demonstrate impairment of their rights in court, while courts are reluctant to acknowledge such rights (right to a healthy environment, as a rule). In such cases NGOs can only address the court with their claim against the decision of the public authority if their rights to participate in the administrative procedure associated with this decision are claimed to be violated.

Challenging acts and omissions by private persons and public authorities that contravene environmental legislation (article 9, paragraph 3)

171. With respect to article 9, paragraph 3, wide standing with no obligation to show violation of rights or legal interest is given to environmental NGOs meeting certain national requirements by a few Parties (e.g., Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Lithuania, Montenegro, Romania and Spain). For example, in France NGOs have standing to challenge administrative decisions affecting the environment. Estonia mentioned that environmental NGOs contesting administrative acts or measures in the field of environment are assumed to have a legitimate interest in the matter, provided that the contested act or measures are related to the environment protection aims of the NGO or its sphere of activity. Germany made reference to the judgment of the Court of Justice of the European Union in the so-called Slovak Brown Bear case,[31] which resulted in allowing the administrative courts permitting legal actions to recognize environmental organizations even outside the scope of the explicit provisions of national legislation, for example in fields such as air quality planning.

172. Some problems in accessing courts by members of the public are indicated by Parties in cases challenging certain types of decisions, such as development plans and screening decisions in EIA procedures (e.g., Czech Republic, Poland and Slovenia). To address these lacunae, a few Parties have recently adopted specific amendments to laws to give the public wider standing to challenge certain decisions (e.g., Austria and Sweden).

173. A few Parties listed the requirements in national legislation for environmental NGOs to have standing in judicial proceedings (e.g., Austria, Bulgaria, Finland, Denmark, Germany, Ireland, Italy, Poland, Slovenia and Sweden), including: a minimum age (time period during which the NGO has been in operation); a minimum number of members; obligatory registration or recognition of the NGO by the designated State authority; and the field and area of operation of the NGO. In Slovenia, NGOs need to obtain the status of entity operating in the field of environmental protection (or nature conservation) in the public interest in order to be a party to judicial or administrative proceedings.

174. In Latvia there are no special standing requirements for environmental NGOs to have access to judicial review procedures. In Belarus NGOs can apply to court only to protect the rights and legitimate interests of their members or to seek compensation for damage to the life, health or property of its members.

175. A few Parties mentioned the right of NGOs to initiate criminal proceedings related to environmental crimes (e.g., Bulgaria, France and Italy). Claims for damages could also be brought by NGOs in Bulgaria and Sweden. In Italy NGOs can intervene in such proceedings and courts tend to also grant NGOs standing to claim environmental damages in criminal proceedings, regardless of the absence of any clear legal provisions for this.

176. In Austria several sectoral laws grant communities standing to challenge decisions within EIA procedures or regarding nature protection.

177. The majority of Parties also mentioned the possibility to seek administrative review of decisions, acts or omissions violating environmental norms or public participation rights from a variety of bodies, and only a few Parties oblige members of the public to exhaust administrative proceedings before applying to the courts (e.g., Hungary and Slovenia).

[31] Case C-240/09 *Lesoochranárske zoskupenie VLK v. Ministerstvo životného prostredia Slovenskej republiky* [2011] ECR I-1255.

Providing effective and not prohibitively expensive remedies (article 9, paragraph 4)

178. Parties indicated in their national reports the possibility of obtaining different remedies in environmental judicial proceedings (civil or administrative), including injunctive relief as foreseen in the procedural norms of the countries (e.g., Armenia, Austria, Belarus, Croatia, France, Ireland, Italy, Kazakhstan, Latvia, Serbia, Slovakia, Spain and United Kingdom). However, the application of this remedy was not regarded as an effective or preferred option in several countries. In Ireland, interim relief, which is one among many public and private law remedies, is reported to be allowed in environmental and development planning cases. In Norway, claimants in environmental cases are exempted from the obligation to pay damages inflicted by the application of interim measures, but this exemption will not be applied if the applicant knew or should have known that his claim was ungrounded when it applied for such measures.

179. A few Parties reported that challenges to acts or decisions brought before the courts automatically suspend implementation of the challenged act or decision (e.g., Bulgaria and Germany), and some allow the parties to the proceedings to ask the court to suspend execution of such decisions during the consideration of the case in order to prevent irreparable damage to the environment. Legislation in Croatia, France, Poland and Slovakia give the courts the power to suspend enforcement of challenged decisions of administrative bodies. In Poland a plaintiff seeking suspension of execution of a building permit is required to pay a bond securing the claims of the investor/developer pending the outcome of the plaintiff's case.

180. A majority of the NIRs indicate that court procedures last on average one year per instance, and slightly longer for appeals or in higher courts, where the proceedings usually exceed the time limits prescribed by the relevant procedural code. A few Parties mentioned that some types of environmental cases are allowed to be considered using simplified or fast-track court procedures. For example, in Croatia environmental litigation is deemed urgent, and Hungary handles access to environmental information cases via a fast-track procedure.

181. The Aarhus Convention requires Parties to provide inexpensive legal remedies, and both judicial and administrative procedures must meet this requirement. While administrative remedies are reported by the majority of Parties to be free of charge to members of the public, judicial procedures result in a variety of expenses for the parties. Such expenses may include court fees, lawyers and expert fees, and the legal costs of the winning party. A few Parties indicated that environmental NGOs are exempted from court fees (e.g., Slovakia and Sweden). In Croatia and Sweden, cases concerning access to information, damage to the environment and challenges of permit are exempted from court fees. In Kyrgyzstan and the Republic of Moldova cases concerning protection of the public interest should be exempted as well, but judges do not always decide environmental cases as being in the public interest. A few Parties reported that their courts have the discretion to waive court fees for applicants instigating environmental litigation. For instance, in the Czech Republic courts used to regularly exempt NGOs from court fees; however, since 2010 this is no longer the case.

182. A few Parties indicated that judges have discretion to award fees to a winning party, although in practice in many cases each party bears its own costs of litigation (e.g., Armenia, Estonia, Ireland, Italy, Norway, Serbia and United Kingdom). No such discretionary powers are given to judges by law in Bulgaria, Kazakhstan and Tajikistan. Poland and Sweden report they have no rule concerning the obligation to pay the fees of the winning party.

183. Lawyer and expert fees reportedly constitute a substantial amount of the expenses involved in bringing cases, and thus pose an obstacle to access to courts for the public (e.g., Belarus, Bosnia and Herzegovina, Estonia, Italy and Netherlands).

184. The United Kingdom reported on the findings of the Compliance Committee on costs[32] which resulted in reforms of costs and funding in civil litigation (see also paragraphs. 224–226 below).

185. All the Parties indicated that court decisions on environmental cases are binding on the parties, prepared in writing and are announced publicly. Texts of such decisions are delivered to parties to the dispute and, as a rule, are available to the public either upon request or through the online databases of court decisions or dedicated web pages (e.g., in Armenia, Austria, Estonia, France, Netherlands, Slovakia and Ukraine). Serbia reported that its National Judicial Reform Strategy foresees plans to make court decisions available in a public database.

Ensuring information is provided to the public on access to administrative and judicial review procedures (article 9, paragraph 5)

186. Parties said that they implemented the provisions of article 9, paragraph 5, by providing information on access to administrative or court procedures when responding to information requests by the public, as well as in the decisions of state authorities or the courts. Information could also be found on the web pages of the State authorities responsible for the provision of environmental information, specialized bodies considering complaints from the public or judicial bodies. A few Parties mentioned awareness-raising activities of Aarhus Centres and different NGOs, including information on remedies under article 9 of the Aarhus Convention.

187. Parties established assistance mechanisms for the public to remove or reduce financial and other barriers to access to justice. Free legal aid was reported to be available in the majority of the reporting Parties, mainly to citizens who were not able to afford litigation (e.g., Bulgaria, Croatia, Denmark, Finland, France, Germany, Italy, Kyrgyzstan, Latvia, Netherlands, Spain and United Kingdom). Serbia has prepared a draft law on free legal aid; Montenegro passed a legal aid law in 2011. NGOs can receive free legal aid to bring environmental cases to court in Italy, the Netherlands and Spain.

188. Parties, in many cases with the aid of NGOs, identified the following obstacles to the implementation of article 9 of Aarhus Convention: unclear legislative rules on fees, standing and jurisdiction; too much discretion given to judges regarding the allocation of costs; no free State legal aid for NGOs to file environmental claims; a lack of the necessary financial resources for members of the public to bring cases to court; the long duration of proceedings; ineffective or inadequate injunctive relief; a lack of standing for NGOs in environmental cases; and a low awareness among judges, lawyers and the public of the public's environmental rights. The EU reported that, with regard to the implementation of article 9, paragraphs 2 and 4, the legal systems of the member States were examined by the Commission, in particular on the issues of standing, costs and the scope of review. As a result, the Commission has brought infringement actions against Austria, the Czech Republic, Germany, Ireland, Malta, Slovakia, Slovenia and the United Kingdom, and assessment of the implementation of article 9, paragraph 3, by EU member States is ongoing.

[32] The findings on communications ACCC/C/2008/23, ACCCC/2008/27 and ACCC/C/2008/33, adopted by the MOP through decision IV/9i (see ECE/MP.PP/2011/2/Add.1).

189. An NGO from Iceland reported on legislative provisions and recent case law restricting access to courts for NGOs to challenge acts or omissions of the public authorities violating environmental legislation. In addition, members of the public can only obtain injunctive relief in cases related to environmental matters if they are deemed to be directly concerned. Moreover, in the case of an administrative review by the Environmental and Natural Resources Board of Appeal, only directly concerned individuals or certain NGOs have access to injunctive relief remedies. Financial barriers for the public in Iceland consist of the mandatory application of the loser pays principle to legal costs with no maximum limits, as well as the absence of State support for NGOs to facilitate their access to justice (e.g., direct financial support of NGOs, free legal aid system).

H. Genetically modified organisms

190. Decision II/1 on GMOs (i.e., the GMO amendment) was adopted by the MOP at its second session (Almaty, Kazakhstan, 25–27 May 2005). As of 1 April 2014, 28 Parties, including the EU, have ratified, accepted or approved the amendment.[33] However, the amendment will only enter into force when three fourths of the Parties that were Parties at the time the amendment was adopted have ratified, approved or accepted it. Thus, the GMO amendment is not yet in force.

191. Parties that have ratified the GMO amendment are bound to work towards its implementation. At the same time, these Parties are also bound by article 6, paragraph 11, which remains binding and in force until the entry into force of the amendment, including new article 6 bis and annex 1 bis.

192. By decision IV/4 the revised reporting format was endorsed, incorporating the requirement for Parties to report on the implementation of article 6 bis.

Article 6, paragraph 11

193. Parties reported that their legislative rules on the application of article 6, paragraph 11, stayed the same as in the previous reporting period. Parties from Eastern Europe, the Caucasus and Central Asia and SEE that have not ratified the GMO amendment are obliged to implement the public participation provisions of article 6 concerning decisions whether to permit deliberate release of GMOs into the environment. Parties briefly reported on legislative measures in place, the development of legislation and procedures for public participation during decision-making on GMOs. Ukraine, inter alia, mentioned the necessity to conduct a State ecological expertise as a prerequisite for State registration of GMOs, during which public participation has to be organized. Georgia reported on the development of a draft Law on GMOs.

194. Parties from the EU and Norway subregion reported on amendments to their legislation in order to transpose relevant EU legislation which is in line with the GMO amendment. During the reporting period their legislation and practice basically remained the same. Some Parties reported on the operation of special bodies tasked with permitting powers in the sphere of GMOs and on the launch and operation of electronic tools for distribution of information concerning GMOs or facilitation of public participation procedures. For example, Lithuania launched a GMO information system under the responsibility of the Ministry of Environment to arrange posting of publicly available information on the use of GMOs and their products for access by all interested persons.

[33] See https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-13-b&chapter=27&lang=en.

France provided a list of web resources where the opinions of two GMO assessment bodies are archived: the High Council for Biotechnologies and the National Agency for Food, Environment and Workplace Safety. The Bulgarian national report contains information on the operation of the Advisory Commission on GMOs to the Minister of Environment and Water. Hungary reported that representatives of environmental, health protection and consumer protection civil society organizations participate in the work of the Gene-technological Advisory Committee responsible for providing opinions concerning GMO authorization.

195. Parties reported that consultations on applications for placing GMOs on the market are considered at the EU level and are publicly available online.

196. Several Parties did not fill in responses regarding legislation on the application of article 6, paragraph 11 (e.g., Azerbaijan, Greece, Italy, Latvia, Norway, Republic of Moldova, Slovenia and Spain), and a few entered the same information as under question 33 (e.g., Sweden). Albania, the Czech Republic and Tajikistan failed to provide any information on GMOs.

Article 6 bis and annex 1 bis

197. The EU countries and Norway[34] and the Republic of Moldova have ratified the GMO amendment and are thus obliged to work towards its implementation. During the reporting period Ireland ratified the GMO amendment and reported on its implementation for the first time. Parties from the EU and Norway reported on the legislative framework related to the implementation of the GMO amendment which is in line with the relevant EU laws governing GMOs, in particular: Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of GMOs and repealing Council Directive 90/220/EEC (GMO Directive); and Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed. These Parties' reported that their provisions on access to information and public participation in decision-making on GMOs are consistent with the GMO amendment to the Convention.

198. National legislation of the Parties from the EU and Norway remained largely the same during the reporting period. Parties provided very detailed descriptions of legislative provisions implementing article 6 bis and annex I bis of the Aarhus Convention (e.g., Finland, Hungary, Ireland, Latvia, Lithuania, Norway, Romania, Slovenia and Spain). Denmark mentioned the adoption of a statutory order on the approval of the deliberate release of GMOs, defining public authorities responsible for GMO issues, in 2012.

199. Parties from Eastern Europe, the Caucasus and Central Asia reported on legislative initiatives in the field of GMOs (e.g., Armenia, Azerbaijan, Georgia, Kazakhstan and Kyrgyzstan), including plans to ratify the GMO amendment (e.g., Ukraine).

200. As to the practice, the EU reported that the European Commission has dealt with only one request concerning the GMO decision-making process. Many Parties also mentioned the absence of any practice of decision-making on GMOs (e.g., Austria, Belarus, Bulgaria, Estonia and Latvia). Wide consultations performed in Latvia during 2009–2013 resulted in the decisions of 103 administrative territories to ban the cultivation of genetically modified crops.

[34] As Switzerland only ratified the Aarhus Convention and the GMO amendment on 4 March 2014, the country has not reported in the present cycle.

201. Several obstacles were mentioned by Parties and NGOs in relation to the implementation of the GMO amendment. Finnish NGOs complained that, in a departure from its practice in previous terms of operation, the Board for Gene Technology does not include any NGO representatives in its current term (2010–2015). Latvia highlighted an absence of easy-to-understand and impartial information on GMOs. Spain, in its report, explained the difficulties in distinguishing between confidential information and information protected by intellectual property rights. Georgia reported it lacked accredited laboratories, qualified staff and information on the methodology of risk assessment in the area of GMOs.

I. Follow-up on issues of compliance

202. The new reporting requirements introduced through decision IV/4 also called for Parties to report on their follow-up on specific cases of non-compliance.

203. Question 37 of the questionnaire annexed to decision IV/4 specifically requested Parties to report on MOP decisions concerning their compliance adopted at the last session. At its fourth session in 2011, the MOP adopted decisions concerning the compliance of nine Parties (decisions IV/9a-i):[35,36] Armenia, Belarus, Kazakhstan, Republic of Moldova, Slovakia, Spain, Turkmenistan, Ukraine and United Kingdom. Except for Turkmenistan, these Parties all submitted their NIRs. Among those Parties only Ukraine failed to report on question 37.

204. The EU also reported on question 37 and mentioned two cases concerning its compliance, one in conjunction with the United Kingdom. In both cases, the Committee's findings have been submitted to the MOP at its fifth session. A few other Parties also reported on communications submitted to the Compliance Committee which are either awaiting decisions of the MOP or have been implemented already.

Armenia

205. Decision IV/9a, adopted by the MOP at its fourth session, endorsed the findings of the Compliance Committee with regard to communication ACCC/C/2009/43.[37] The Committee concluded that Armenia failed to comply with article 3, paragraph 1, and article 6, paragraphs 2, 4 and 9, of the Convention.

206. Armenia did not provide a response to question 37 regarding follow-up on compliance decisions concerning it by the MOP in its national report, but mentioned the MOP decision in question in the context of reporting on article 6 in its national report.

207. In its NIR,[38] Armenia reported that in order to implement decision IV/9a, the Ministry of Nature Protection of Armenia had developed the draft Law "On environmental impact assessment and expertise" with the participation of NGO representatives (six persons). The draft was considered by the Standing Commission on Agricultural and Environmental Issues of the National Assembly and then was opened for public commenting. Parliamentary hearings are planned in order to improve the draft law.

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[35] See ECE/MP.PP/2011/2/Add.1.

[36] Documentation concerning the implementation by Parties of MOP decisions on compliance is available from http://www.unece.org/env/pp/ccimplementation.html.

[37] See ECE/MP.PP/2011/11/Add.1, available from http://www.unece.org/env/pp/mop4/mop4.doc.html.

[38] For more information, see the Compliance Committee's report to the MOP on compliance by Armenia with its obligations under the Convention (ECE/MP.PP/2014/10), available from http://www.unece.org/env/pp/aarhus/mop5_docs.html.

Belarus

208. Decision IV/9b, adopted by the MOP at its fourth session, endorsed the findings of the Compliance Committee that Belarus failed to comply with article 4, paragraph 1, and article 6, paragraphs 2, 7 and 9, of the Convention.

209. In its NIR,[39] Belarus reported on the preparation of draft amendments to national legislation aimed at ensuring its better compliance with the Aarhus Convention. The draft amendments, which include a draft law and a draft resolution of the Council of Ministers of Belarus, are currently under review. The documents were prepared with the involvement of an NGO representative and were submitted to the Compliance Committee for comments. In 2010 the Government adopted a Regulation on the Organization of State Ecological Expertise and a Regulation on the Organization of Environmental Impact Assessment. In 2011 two amendments were adopted to interpret and amend the procedure for State ecological expertise. In 2011 the Law "On appeals of citizens and legal persons" was adopted. Belarus also developed an action plan for implementing the recommendations of the Compliance Committee and the progress report on the work done was submitted to the Committee by the deadline of 1 December 2011, and the action plan by the deadline of 1 April 2012.

Kazakhstan

210. At its fourth session, the MOP adopted decision IV/9c on compliance by Kazakhstan with its obligations under the Convention.

211. In its NIR,[40] Kazakhstan reported on the following activities: changes to the composition of the interministerial working group on implementation of the Aarhus Convention; an analysis of environmental and civil procedural legislation, aimed at ensuring compliance with Aarhus Convention provisions; and an analysis of case law from 2008–2011 related to access to information, public participation in decision-making and access to justice in environmental matters. The analytical documents were discussed at the meeting of the interministerial working group in 2011, at a round table in Astana in 2011 and at a regional seminar in 2012, as well as by Aarhus Centres and the NGO Ecoforum, and the texts were posted on the website of the National Aarhus Centre for discussion with the public. On 30 December 2011, Kazakhstan submitted to the Compliance Committee its detailed report on implementation of decision IV/9c. In May 2013, the Party initiated the development of an outline for a draft law amending legislation on access to information, public participation and access to justice in environmental matters. The outline was discussed with the public and the draft law is currently being developed, also with the involvement of the public.

212. In addition, Kazakhstan mentioned in its NIR two more recent communications ACCC/C/2010/59 and ACCC/C/2013/88, and briefly described measures taken to implement recommendations by the Compliance Committee on the first of these, including adoption, inter alia, of changes to the regulation on the conduct of public hearings.

[39] For additional information, see the Compliance Committee's report to the MOP on compliance by Belarus with its obligations under the Convention (ECE/MP.PP/2014/12), available from http://www.unece.org/env/pp/aarhus/mop5_docs.html.

[40] For additional information, see Compliance Committee's report to the MOP on compliance by Kazakhstan with its obligations under the Convention (ECE/MP.PP/2014/17), available from http://www.unece.org/env/pp/aarhus/mop5_docs.html.

Republic of Moldova

213. At its fourth session, the MOP adopted decision IV/9d on compliance by the Republic of Moldova with its obligations under the Convention.

214. In its NIR,[41] the Republic of Moldova reported that no specific regulations on the enforcement of decisions on public access to environmental information were adopted because such decisions are considered civil cases and the enforcement procedure is the same for all such decisions. The Party mentioned amendments to the Code of Behaviour of Public Servants in 2011, adding a new chapter on the "disciplinary responsibility" of public servants. The Law on Public Access to Environmental Information, establishing, inter alia, the obligation to keep centralized statistical information on requests for access to environmental information, was sent to the parliament for approval in 2013 and is now on the agenda of the parliament as a priority. The Republic of Moldova also reported on several trainings organized in 2012, including regional trainings for local public authorities, judges and prosecutors. In addition, the Party reported that during the preparation of planned changes to forestry legislation the recommendations of the Compliance Committee will be considered.

Slovakia

215. Decision IV/9e, adopted by the MOP at its fourth session, endorsed the findings of the Compliance Committee that Slovakia failed to comply with article 6, paragraphs 4 and 10, of the Convention.

216. Slovakia reported in its NIR[42] that the measures requested in the decision have been performed on time and that it has also participated in a teleconference with the communicant of communication ACCC/C/2009/41, national authorities and the Compliance Committee. Slovakia provided answers to further questions raised during that discussion and additional information was sent to the Committee in August 2013, including the decision of the Supreme Court in favour of the communicant.

217. Another communication concerning compliance by Slovakia was submitted to the Compliance Committee in 2013 (ACCC/C/2013/89).

Spain

218. Decision IV/9f, adopted by the MOP at its fourth session, endorsed the findings of the Compliance Committee with regard to communications ACCC/C/2008/24 and ACCC/C/2009/36. The Committee found that Spain had failed to comply with article 3, paragraph 8, article 4, paragraphs 1 (b), 2 and 8, article 6, paragraphs 3 and 6, and article 9, paragraphs 4 and 5, of the Convention.

219. Spain reported in its NIR[43] that it has prepared a study on access to justice which will be presented at the fifth session of the MOP. The study, prepared in collaboration with the Ministry of Justice, was carried out with appropriate involvement of the public as

[41] For additional information, see Compliance Committee's report to the MOP on compliance by Republic of Moldova with its obligations under the Convention (ECE/MP.PP/2014/18), available from http://www.unece.org/env/pp/aarhus/mop5_docs.html.

[42] For additional information, see Compliance Committee's report to the MOP on compliance by Slovakia with its obligations under the Convention (ECE/MP.PP/2014/19), available from http://www.unece.org/env/pp/aarhus/mop5_docs.html.

[43] For additional information, see Compliance Committee's report to the MOP on compliance by Spain with its obligations under the Convention (ECE/MP.PP/2014/20), available from http://www.unece.org/env/pp/aarhus/mop5_docs.html.

required by decision IV/9f. Concerning the fees and time frames for providing information, the Party provided a weblink to the letter of the Aarhus National Focal Point mentioning that the fee for the provision of environmental information in accordance with the law of Murcia is €1 per A4 page for any kind of information, and time frames for public participation in Murcia are longer than 20 days, excluding holidays.

Turkmenistan

220. At its fourth session, the MOP adopted decision IV/9g on compliance by Turkmenistan with its obligations under the Convention.

221. At the time of preparing this synthesis report, the Party had not submitted its NIR.[44]

Ukraine

222. At its fourth session, the MOP adopted decision IV/9h on compliance by Ukraine with its obligations under the Convention.

223. In its NIR, Ukraine did not report on the question related to follow-up on compliance issues, nor did it address the issue of compliance in other parts of its national report.[45]

United Kingdom of Great Britain and Northern Ireland

224. Decision IV/9i, adopted by the MOP at its fourth session, endorsed the findings of the Compliance Committee with regard to communications ACCC/C/2008/23 (non-compliance with article 9, paragraph 4), ACCC/C/2008/27 (non-compliance with article 9, paragraph 4) and ACCC/C/2008/33 (non-compliance with article 3, paragraph 1, and article 9, paragraphs 4 and 5).

225. In its NIR,[46] the United Kingdom summarized the three communications and provided a description of measures taken by England and Wales, Northern Ireland and Scotland in that regard. Namely, England and Wales enacted changes to civil procedure rules in April 2013 which set maximum costs to be paid by an unsuccessful claimant throughout first instance proceedings for Aarhus Convention claims. In Northern Ireland similar changes to its civil procedure regulations were introduced in 2013. In Scotland, the Rules of the Court of Session were also amended in 2013. The Party also reported on measures by England and Wales in relation to time frame issues for judicial reviews relating to planning decisions for which statutory appeals are also available.

226. Progress reports on decision IV/9i were sent to the Compliance Committee in March 2012, September 2012 and February 2013, and the issue was further discussed at the Committee's forty-first meeting in June 2013.

[44] For additional information, see Compliance Committee's report to the MOP on compliance by Turkmenistan with its obligations under the Convention (ECE/MP.PP/2014/21), available from http://www.unece.org/env/pp/aarhus/mop5_docs.html.

[45] For additional information, see Compliance Committee's report to the MOP on compliance by Ukraine with its obligations under the Convention (ECE/MP.PP/2014/22), available from http://www.unece.org/env/pp/aarhus/mop5_docs.html.

[46] For additional information, see Compliance Committee's report to the MOP on compliance by the United Kingdom with its obligations under the Convention (ECE/MP.PP/2014/23), available from http://www.unece.org/env/pp/aarhus/mop5_docs.html.

IV. Conclusions

General remarks

227. In the fourth reporting cycle 39 out of the 46 Parties with reporting obligations for the cycle submitted their national implementation reports in time to be considered in the synthesis report, with 29 Parties submitting their reports before the deadline. These figures reflect the overall commitment of the Parties to the implementation of the Aarhus Convention. Parties reported that they prepared their NIRs in a transparent and participatory manner: organizing broad public consultations during preparation of NIRs; making draft reports available online to the public; and taking due account of public opinion in the final version of the report.

228. In general, the reporting format was used by the majority of Parties and they indicated a sufficient understanding of the Aarhus Convention's provisions during the preparation of their NIRs. Some Parties failed, however, to answer all the questions in the reporting format, while for others questions on obstacles were not relevant. Half of the Parties included comments provided by the public in responding to questions on obstacles to implementation. Parties provided different levels of detail in responding to questions in their NIRs. Nevertheless, the majority of Parties demonstrated considerable effort in the preparation of their reports. Overall, the reports represent a valuable frame of reference for determining the current status of implementation of the Aarhus Convention.

Status of implementation

229. Parties reported different levels of implementation of provisions related to access to information, and thus different progress and improvements during the reporting period. Parties from the EU and Norway reported constant improvement in ensuring access to information for and the provision of environmental information to the public. Parties are using a variety of electronic tools, increasing the availability of information through the Internet, in electronic form and other "user-friendly" formats for this purpose. Parties also mentioned the consolidation of systems of access to environmental information, often consisting of different electronic information databases.

230. Parties from Eastern Europe, the Caucasus and Central Asia and SEE indicated slow progress in the dissemination of information to public, but there is a trend showing an increase in the volume and a variety of environmental information that can be accessed online in electronic form from these countries. Parties from both subregions rely on the work of Aarhus Centres in disseminating information to the public.

231. Parties from the EU and Norway reported positive results in the implementation of public participation provisions, allowing the public to participate in a variety of decisions affecting the environment. Many countries reported on amendments to their legislation in this regard, in particular to changes in the procedures for conducting public consultations in order to facilitate public participation at an early stage of decision-making. For Parties from Eastern Europe, the Caucasus and Central Asia and SEE, public participation did not appear to be an every-day practice. Parties reported on legislative provisions on public participation mainly in connection with EIA and State ecological expertise processes. The application of SEA and public participation on plans, programmes and policies, executive regulations and legally binding normative instruments are not systematic and in many cases require the enactment of detailed legal regulations.

232. The majority of Parties still reported obstacles in ensuring access to justice in environmental matters, both with regard to legislation as well as in practice, and Parties are making efforts to address both of these issues. Legislative changes, law-drafting, expert studies and judicial reforms are taking place at the national level in order to eliminate

obstacles for the public, including lack of standing and financial burdens, such as court fees, fees for lawyers and experts and the payment of compensation and costs to the wining party. Administrative review systems are reported to be available to the public to bring complaints concerning the violation of the Convention's access to information or public participation provisions. Administrative reviews are carried out either by higher authorities or specially established bodies, and such processes are mostly reported to be free of charge, prompt and effective.

233. As the GMO amendment has not been ratified by most of the Parties from Eastern Europe, the Caucasus and Central Asia and SEE, these provisions of the Aarhus Convention are not sufficiently implemented. The same is true for the Parties from Eastern Europe, the Caucasus and Central Asia in relation to the Protocol on PRTRs.

The way forward

234. Based on the analysis of the synthesis report it is advisable for the Parties to:

(a) Ensure during the next reporting cycle that public comments on draft national reports are taken into account and included in the NIRs in the relevant sections, at a minimum in questions regarding obstacles to implementation, and that the comments from the public are available on the web pages as well as any replies or positions on them from the side of the government;

(b) Strive for full implementation of the Convention's access to information provisions by ensuring broader access to environmental information and documents, and by the launching and operation of electronic databases and information registers on environmental media and issues (air, water, land, biodiversity, etc.) with up-to-date, reliable information that is available online in electronic format and with a user-friendly interface. Regular updates of the information available on the web pages of the public authorities and improvements of their web pages at the national and local levels should be sought;

(c) Strive for full implementation of the Convention's provisions on public participation in decision-making by ensuring meaningful and early public participation, the availability of relevant documents to the public, effective means of notification and sufficient time frames during the decision-making to assist public in the exercise of their rights. Parties should consider making institutional or organizational arrangements in order to achieve improvements in consultation practices and the broader involvement of the public, as well as to ensure that greater account is taken of the comments from the public in the final decision and to communicate the decision and the reasoning on which it is based to the public, including on how the public's comments have been taken into account. A formalistic approach to public participation should be eliminated. For this purpose, Parties should review their legislation and practice and consider improvements in their procedures for public participation and/or decision-making in environmental matters;

(d) Strive for full implementation of the Convention's access to justice provisions by ensuring the clarity of legislation on access to justice, the compliance of practice with such legislation and the requirements of the Aarhus Convention, and by speeding up the process of adoption of relevant amendments to national legislation to open and facilitate access to justice for environmental NGOs and ordinary individuals in cases alleging the violation of environmental legislation by decisions, acts and omissions of the public authorities;

(e) Ensure that necessary and sufficient assistance mechanisms are provided and are available in practice for citizens and NGOs wishing to exercise their rights under the Convention;

(f) Ratify the GMO amendment and the Protocol on PRTRs as soon as possible, adapt the legislative framework to the requirements of these instruments and ensure the institutional and technical framework for the implementation of these instruments at the national level;

(g) Continue awareness-raising and educational activities among the public, officials and the judiciary on issues concerning the implementation of the Aarhus Convention, and in particular with regard to access to justice issues;

(h) Strive to increase financial support to NGOs in their activities implementing the Aarhus Convention, in particular based on the provisions of article 3 of the Convention.